

# Index of Comments on Draft Program EIR & Responses

The Draft EIR for the Dos Colinas project was circulated for a 45-day public review period, extending from September 27, 2010, through November 10, 2010. The following agencies, organizations, and individuals provided written comments on the Draft EIR during public review. A copy of each comment letter along with corresponding responses is included in a "side by side" format to facilitate review. The specific comments and the corresponding responses have each been given an alphanumeric reference.

Letter No.	Author	Address	Date	Representing	Page No. of Letter
<b>Federal/State Agencies</b>					
A	Scott Morgan Director, State Clearinghouse	1400 Tenth Street, P.O. Box 3044 Sacramento, CA 95812-3044	November 12, 2010	Governor's Office of Planning and Research, State Clearinghouse and Planning Unit	RTC-1
B	Scott Morgan Director, State Clearinghouse	1400 Tenth Street, P.O. Box 3044 Sacramento, CA 95812-3044	November 15, 2010	Governor's Office of Planning and Research, State Clearinghouse and Planning Unit	RTC-3
C	Karen A. Goebel Assistant Field Supervisor	6010 Hidden Valley Ra., Suite 101 Carlsbad, Ca 92011	November 10, 2010	U.S. Fish and Wildlife Service	RTC-4
	Stephen M. Juarez Environmental Program Manager	4949 Viewridge Avenue San Diego, CA 92123		California Department of Fish and Game	
D	Al Shami Project Manager	5796 Corporate Avenue Cypress, CA 90630	November 9, 2010	Department of Toxic Substances Control	RTC-27
<b>Local Agencies</b>					
<b>NO LOCAL AGENCY LETTERS RECEIVED</b>					

Letter No.	Author	Address	Date	Representing	Page No. of Letter
<b>Organizations</b>					
E	James W. Royle, Jr. Chairperson	P.O. Box 81106 San Diego, CA 92138	October 18, 2010	San Diego County Archaeological Society, Inc.	RTC-32
F	Diane Nygaard	5020 Nighthawk Way Oceanside, CA 92056	November 5, 2010	Preserve Calavera	RTC-37
G	Dan Silver Executive Director	8424 Santa Monica Blvd., Suite A 592 Los Angeles, CA 90069	October 26, 2010	Endangered Habitats League	RTC-87
H	Barbara Bevis President Rancho Carlsbad Owner's Association, Inc.	5200 El Camino Real Carlsbad, CA 92010	November 9, 2010	Rancho Carlsbad	RTC-88
I	De'Ann Weimer President, Friends of Aviara	P.O. Box 131773 Carlsbad, CA 92013	November 5, 2010	Friends of Aviara	RTC-93
J	Richard D. Aschenbrenner Chief Executive Officer	1940 Levante Street Carlsbad, CA 92009	November 5, 2010	La Costa Glen	RTC-99
K	David Bentley	benteq@roadrunner.com	November 10, 2010	Bentley Equity, Inc.	RTC-101
L	Diane Nygaard	5020 Nighthawk Way Oceanside, CA 92056	December 10, 2010	Preserve Calavera	RTC-104

## Comment Letter A



Arnold Schwarzenegger  
Governor

November 12, 2010

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Cathleen Cox  
Acting Director

CITY OF CARLSBAD  
NOV 17 2010  
PLANNING DEPARTMENT

Shannon Werneke  
City of Carlsbad  
Planning Department  
1635 Faraday Avenue  
Carlsbad, CA 92008

Subject: EIR 09-01 - Dos Colinas  
SCH#: 2009111085

Dear Shannon Werneke:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on November 10, 2010, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan  
Director, State Clearinghouse

A-1

RESPONSE TO COMMENT LETTER FROM GOVERNOR'S OFFICE OF PLANNING AND RESEARCH, STATE CLEARINGHOUSE AND PLANNING UNIT, SIGNED BY SCOTT MORGAN, DIRECTOR, DATED NOVEMBER 12, 2010 (COMMENT LETTER A)

### Response to Comment A-1:

This letter acknowledges that the City of Carlsbad has complied with the State Clearinghouse public review requirements for the Dos Colinas Project Draft EIR, pursuant to the California Environmental Quality Act.

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044  
TEL (916) 446-0613 FAX (916) 323-8018 [www.opr.ca.gov](http://www.opr.ca.gov)

Document Details Report  
State Clearinghouse Data Base

SCH# 2009111085  
 Project Title EIR 09-01 - Dos Colinas  
 Lead Agency Carlsbad, City of

Type EIR Draft EIR

Description The proposed project consists of a 309-unit Continuing Care Retirement Community (CCRC), the relocation of a Recreational Vehicle (RV) storage and garden lot for the residents of the Rancho Carlsbad Estates (RCE), and a 29-unit income-restricted multi-family development (i.e. apartments). The proposed project will involve the reconfiguration and change of General Plan Land Use and zoning designations. As the proposed project may be the first of several private projects to be developed in this area and it relies on the extension of College Boulevard Reach "A" for access, the development of the core improvements for Reach A, including a bridge over Agua Hedionda Creek and frontage improvements, are proposed as a feature of the Dos Colinas project. The development of College Boulevard Reach "A" has already been analyzed and approved pursuant to EIR 98-02(SCH No. 99111082).

## Lead Agency Contact

Name Shannon Werneke  
 Agency City of Carlsbad  
 Phone (760) 602-4621  
 email  
 Address Planning Department  
 1635 Faraday Avenue  
 City Carlsbad State CA Zip 92008

## Project Location

County San Diego  
 City  
 Region  
 Lat / Long 33° 9' 05" N / 117° 17' 10" W  
 Cross Streets El Camino Real, Cannon Road, College Boulevard  
 Parcel No. 209-060-68,70,71  
 Township Range Section Base

## Proximity to:

Highways  
 Airports McClellan/Palomar  
 Railways  
 Waterways Agua Hedionda Lagoon  
 Schools Carlsbad Unified School District  
 Land Use With exception to an existing vacant single-family home and equestrian-related accessory structures, the project site is largely vacant. Existing zoning consists of L-C (Limited Control) and OS (Open Space); existing General Plan Land Use designations for the project site are RLM (Residential, Low-Medium Density) and OS (Open Space).

Project Issues Air Quality; Biological Resources; Archaeologic-Historic; Geologic/Seismic; Toxic/Hazardous; Water Supply; Landuse; Noise; Population/Housing Balance; Public Services; Traffic/Circulation; Water Quality; Drainage/Absorption; Aesthetic/Visual; Flood Plain/Flooding; Forest Land/Fire Hazard; Growth Inducing; Schools/Universities; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Vegetation; Wildlife; Wetland/Riparian; Cumulative Effects

Reviewing Agencies Resources Agency; Department of Fish and Game, Region 5; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 11; Regional Water Quality Control Board, Region 9; Department of Toxic Substances Control; Native American Heritage Commission

Note: Blanks in data fields result from insufficient information provided by lead agency.

Note: Blanks in data fields result from insufficient information provided by lead agency.

Document Details Report  
State Clearinghouse Data Base

Date Received 09/27/2010 Start of Review 09/27/2010 End of Review 11/10/2010



## Comment Letter B



Arnold Schwarzenegger  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Cathleen Cox  
Acting Director

November 15, 2010

CITY OF CARLSBAD  
NOV 18 2010  
PLANNING DEPARTMENT

Shannon Werneke  
City of Carlsbad  
Planning Department  
1635 Faraday Avenue  
Carlsbad, CA 92008

Subject: EIR 09-01 - Dos Colinas  
SCH#: 2009111085

Dear Shannon Werneke:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on November 10, 2010. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2009111085) when contacting this office.

Sincerely,

Scott Morgan  
Director, State Clearinghouse

Enclosures  
cc: Resources Agency

B-1

RESPONSE TO COMMENT LETTER FROM GOVERNOR'S OFFICE OF PLANNING AND RESEARCH, STATE CLEARINGHOUSE AND PLANNING UNIT, SIGNED BY SCOTT MORGAN, DIRECTOR, DATED NOVEMBER 15, 2010 (COMMENT LETTER B)

### Response to Comment B-1:

This letter transmits a comment letter received by the State Clearinghouse after the end of the state review period. Although CEQA does not require Lead Agencies to respond to late comments, the transmitted letter (Department of Toxic Substances Control, dated November 9, 2010) is responded to in Responses to Comments D-1 through D-8.

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044  
TEL (916) 445-0613 FAX (916) 823-3018 www.spr.ca.gov

## Comment Letter C



U. S. Fish and Wildlife Service  
Carlsbad Fish and Wildlife Office  
6010 Hidden Valley Rd. Suite 101  
Carlsbad, California 92011  
(760) 431-9440  
FAX (760) 431-5902



California Department of Fish and Game  
South Coast Region  
4949 Viewridge Avenue  
San Diego, California 92123  
(858) 467-4201  
FAX (858) 467-4299

In Reply Refer To:  
FWS/CDFG-SDG-10B0054-11TA0039

November 10, 2010

Ms. Shannon Werneke  
Associate Planner  
City of Carlsbad  
1635 Faraday Avenue  
Carlsbad, California 92008-7314

Subject: Comments on the Draft EIR for the Dos Colinas Project, City of Carlsbad,  
San Diego County, California (SCH 2009111085, EIR 09-01)

Dear Ms. Werneke:

The California Department of Fish and Game (Department) and the U.S. Fish and Wildlife Service (Service), hereafter collectively referred to as the Wildlife Agencies, have reviewed the September 21, 2010, draft Environmental Impact Report (DEIR) and supporting documentation for the Dos Colinas project. The Wildlife Agencies have provided input on the proposed project in meetings and written communications since 2007. Most recently, we sent the City of Carlsbad (City) a comment letter dated December 17, 2009, on the Notice of Preparation of the DEIR, and we met with the City and the applicant on May 11, 2010 and October 7, 2010.

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Federal Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), including habitat conservation plans (HCPs) developed under section 10(a)(1) of the Act. The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA; Sections 15386 and 15381, respectively) and is responsible for ensuring appropriate conservation of the state's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act (CESA) and other sections of the Fish and Game Code. The Department also administers the Natural Community Conservation Planning (NCCP) Program. The City is currently participating in the Department's NCCP and the Service's HCP programs by implementing its approved Habitat Management Plan (HMP) under the Multiple Habitat Conservation Program.

### Project Site Location

The proposed project site is in the northeast segment of the City and consists of 55.6 acres composed of three parcels [Assessor Parcel Numbers 209-060-68, -70, and -71] that extend from the intersection of Cannon Road and College Boulevard south through undeveloped lands to the intersection of College Boulevard and Sunny Creek Road. The majority of the site lies within Zone 15, a Proposed Standards Area of the HMP; a small portion of the southeastern corner of the site, located outside proposed development areas, lies within Focused Planning Area Core 5 of the HMP. The future alignment of

### Intro

RESPONSE TO COMMENT LETTER FROM U.S. FISH AND WILDLIFE SERVICE AND CALIFORNIA DEPARTMENT OF FISH AND GAME (JOINT LETTER), SIGNED BY KAREN A. GOEBEL, ASSISTANT FIELD SUPERVISOR AND STEPHEN M. JUAREZ, ENVIRONMENTAL PROGRAM MANAGER, DATED NOVEMBER 10, 2010 (COMMENT LETTER C)

### Response to Comment Intro:

This comment is summarizing the project description. No further response is necessary.



**Comment Letter C**  
(cont'd.)

Ms. Shannon Werneke (FWS/CDFG-SDG-10B0054-11TA0039)

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College Boulevard – Reach A (analyzed previously in the certified Environmental Impact Report (EIR) for the Calavera Hills Master Plan Phase II, Bridge and Thoroughfare District No. 4 & Detention Basin - RECON 2001, EIR No. 98-02, SCH No. 99111082, and the Service's Biological Opinion for College Boulevard – Reach A and Basin BJ Project - FWS-SDG-10B0209-10F0415; Calavera Hills Master Plan) will define the eastern boundary of the proposed Continuing Care Retirement Community (CCRC) and the western boundary of the proposed affordable housing complex.

**Project Description**

The Dos Colinas project consists of: 1) relocation and reconstruction of a recreational vehicle storage and garden area (RV Storage/Garden Area) for the residents of Rancho Carlsbad Estates; 2) development of the 309-unit CCRC; and 3) development of a 29-unit affordable housing complex. The proposed project also includes construction of offsite access roads to the CCRC and affordable housing complex, sewer facilities within the realigned Dos Carlos Drive, and an underground storm drain.

The proposed project will be developed in two phases: 1) relocation and reconstruction of the RV Storage/Garden Area; and 2) the CCRC, affordable housing complex, and the offsite sewer facilities, storm drain, and access roads.

***First Phase***

The proposed RV Storage/Garden Area is designed to replace existing offsite facilities located northeast of College Boulevard – Reach A on property owned by the Rancho Carlsbad Owners Association (RCOA). The new RV Storage/Garden Area is required as a mitigation measure in the final EIR for the Calavera Hills Master Plan; specifically, as a result of the College Boulevard – Reach A element of that project. The implementation of the first phase, which will occur concurrently with the construction of College Boulevard – Reach A and Basin BJ (also previously analyzed in the Calavera Hills Master Plan EIR), will include grading for the new RV Storage/Garden Area (including placing fill in the 100-year floodplain) and for the proposed water quality bio-retention. Access to the RV Storage Parking/Garden Area will be provided from the existing street system within Rancho Carlsbad Estates.

***Second Phase***

**Continuing Care Retirement Community**

Development of the CCRC will occur on parcels 209-060-70 and -71. Offsite impacts associated with the CCRC include construction of an access road within the southwestern corner of parcel 209-060-70 connecting Rancho Carlsbad Estates to the proposed CCRC development. This access will fulfill a previous condition of approval placed on the RCOA's property that required secondary access to College Boulevard. Development of the CCRC will require fill in the 100-year floodplain. The following are proposed for the CCRC:

**Intro**  
(cont'd.)

**Comment Letter C**  
(cont'd.)

Ms. Shannon Werneke (FWS/CDFG-SDG-10B0054-11TA0039)

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- A conservation easement to be placed over a 1.21-acre portion of parcel 209-060-70 (Figure 5.6-4 in the DEIR) supporting coastal sage scrub and more than 100 individuals of California adolphia - this easement is a proposed hardline conservation area;
- Approximately 5.05 acres on parcel 209-060-71 to be designated as open space - this area will encompass a 100-foot buffer from the edge of the riparian canopy drip line along Agua Hedionda Creek; and
- A portion of parcel 209-060-71 to be excavated slightly to expand the volumetric capacity and areal extent (by 0.30 acre) of the floodplain.

No wetland buffer is proposed along Little Encinas Creek because Don Carlos Drive, which will be realigned to connect to an existing paved road associated with Rancho Carlsbad Estates, is within 10 feet of the Creek.

Offsite Storm Drain, Sewer Access Road and Facilities for the CCRC

The DEIR addressed two alignments for the proposed offsite storm drain that will convey runoff (after passing through a series of detention basins) from the proposed CCRC to Agua Hedionda Creek.

As a result of the construction of College Boulevard – Reach A, an existing north/south road (now identified as Don Carlos Drive) will be realigned to the west and connected to an existing unnamed paved road that traverses land owned by the Rancho Carlsbad Estates. In addition, a public sewer (20-foot easement) will be installed within the realigned road. North of Little Encinas Creek, a 20-foot wide permanent access path paved with decomposed granite is also proposed between an existing manhole and a proposed manhole.

Affordable Housing Complex

The affordable housing complex is proposed on the southern portion of parcel 209-060-68 to the south of Agua Hedionda Creek. Offsite impacts associated with the affordable housing complex include construction of an access road within the southeastern corner of the complex connecting it to Sunny Creek Road. The entire, approximately 1.00-acre residential usage area associated with the affordable housing complex, will be raised out of the floodplain.

A buffer with an average width of 97 feet will be established between the affordable housing complex and the outside edge of the riparian canopy associated with Agua Hedionda Creek. A proposed 0.10-acre encroachment into the buffer at its southern corner adjacent to an existing paved parking lot is proposed to be offset by an approximately 0.10-acre area at the northern end of the buffer. A restrictive covenant is proposed over the 0.84-acre buffer, and a conservation easement is proposed, adjacent to the northern boundary of the buffer, over a 0.67-acre portion of the affordable housing complex parcel that supports riparian habitat within Agua Hedionda Creek. This will extend conservation of the Creek corridor westward from the terminus of the defined Core Area 5; this conservation easement is proposed hardline conservation area.

For both the CCRC and the affordable housing complex, permanent fencing and signs will be installed between open space areas and the development, no lighting is proposed within the open space areas, and

**Intro**  
(cont'd.)

**Comment Letter C**  
(cont'd.)

Ms. Shannon Werneke (FWS/CDFG-SDG-10B0054-11TA0039)

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the temporary and permanent outdoor lighting will be low-pressure sodium lighting that is downcast and fully shielded. For the affordable housing complex, the permanent fencing will be 6-foot chain link and will be installed between the development and the buffer. An additional fence will be installed between the basin and the existing riparian habitat along Agua Hedionda Creek that will be preserved via the conservation easement; this fence will consist of galvanized steel posts at maximum intervals of 20 feet, and two strands of galvanized braided cable linking the posts together.

**Sensitive Fauna Observed**

Among the species observed during project-related biological surveys were least Bell's vireo (*Vireo bellii pusillus*, "vireo," an HMP covered species), Cooper's hawk (*Accipiter cooperii*, an HMP covered species), sharp shinned hawk (*Accipiter striatus*), northern harrier (*Circus cyaneus*), white-tailed kite (*Elanus leucurus*, a State fully protected species), loggerhead shrike (*Lanius ludovicianus*), yellow warbler (*Dendroica petechia brewsteri*), yellow-breasted chat (*Icteria virens*), California horned lark (*Eremophila alpestris actia*), and Nuttall's woodpecker (*Picoides nuttallii*). No coastal California gnatcatchers (*Poliophtila californica californica*) were detected on site or within the 300-foot mapping buffer during the 2006 or 2009 protocol surveys. One paired male vireo (Vireo #1) with at least two fledglings was observed on the project site during the 2009 protocol surveys. Two additional vireos Vireo #2 (also a paired male with at least two fledglings) and Vireo #3 were detected off site. The observed use area for Vireo #1 is within the proposed College Boulevard – Reach A alignment for which impacts were previously analyzed in the certified EIR for the Calavera Hills Master Plan and the Service's Biological Opinion FWS-SDG-10B0209-10F0415.

Intro  
(cont'd.)

**Project Biological Impacts and Mitigation**

The proposed project will result in approximately 41.20 acres of permanent and 1.20 acres of temporary impacts as shown in Table 1. No permanent impacts to wetlands are proposed. Table 1 also shows the mitigation ratios for permanent impacts and the acreages needed to meet these requirements. All temporary impact areas will be reseeded with species comparable to those currently present.

Table 1. Summary of Permanent and Temporary Impacts Within the Study Area and Proposed Mitigation

Vegetation Community	Existing Acreage			Impacts		Mitigation	
	Onsite	Offsite	Total	Permanent	Temporary	Ratio	Required
Southern sycamore-alder riparian woodland	1.60	0.00	1.60	0.00	0.00	1:1	0.00
Coastal valley and freshwater marsh	0.00	<0.10	<0.10	0.00	0.00	1:1	0.01 <sup>1</sup>
Disturbed valley needlegrass grassland	0.20	0.00	0.20	0.04	0.00	3:1	0.12
Diegan coastal sage scrub	2.70	0.00	2.70	0.60	0.05	1:1	0.65
Extensive agriculture	39.10	<0.10	39.20	34.30	0.40	Fee	Fee
Extensive agriculture – sycamore grove <sup>2</sup>	0.20	0.00	0.20	0.00	0.00	Fee	Fee
Eucalyptus woodland	1.50	0.10	1.60	0.50	0.10	Fee	Fee
Disturbed habitat	2.20	0.10	2.30	1.80	0.20	Fee	Fee
Urban/developed	8.10	1.20	9.30	3.90	0.40	N/A	N/A
<b>TOTAL</b>	<b>55.60</b>	<b>1.60</b>	<b>57.20</b>	<b>41.14</b>	<b>1.15</b>		<b>0.77</b>

1. Even though no loss of wetland habitat is proposed, because of impacts to unvegetated streambank from the offsite storm drain, approximately 0.01 acre of riparian habitat within the 0.67-acre conservation easement will be enhanced through removal of nonnative species and replacement with native riparian habitat.

2. This community does not meet any of the three wetland parameters and does not function as a wetland habitat; rather it functions as an element of the surrounding agricultural vegetation community and, thus, has been identified as extensive agriculture.

**Comment Letter C**  
(cont'd.)

Ms. Shannon Werneke (FWS/CDFG-SDG-10B0054-11TA0039)

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The proposed mitigation for the permanent impacts to less than 0.10 acre of valley needlegrass grassland and 0.60 acre of coastal sage scrub is preservation and restoration on site at a 3:1 and 1:1 ratio, respectively. The resulting, approximately 0.12 acre of valley needlegrass grassland and 0.60 acre of coastal sage scrub, will be within the proposed 1.21 acres to be placed within a conservation easement. Restoration will occur via removal of nonnative species and replacement with native grasses and sage scrub associates.

Mitigation for permanent impacts to extensive agriculture, extensive agriculture – sycamore grove, Eucalyptus woodland, and disturbed habitat will be accomplished through the payment of mitigation fees as required in the City's HMP.

A conceptual mitigation, maintenance, and monitoring plan will be prepared for the restoration and preservation of all areas proposed to be protected via a conservation mechanism (e.g., conservation easement or restrictive covenant). This plan will include the following elements: 1) objectives; 2) site selection criteria; 3) conservation mechanism; 4) baseline information; 5) credit determination methodology (for future projects' potential mitigation within the open space for the CCRC); 6) mitigation work plan; 7) maintenance plan; 8) ecological performance standards; 9) monitoring requirements; 10) long-term management plan; 11) adaptive management plan; and 12) financial assurances. The long-term management plan will include the following: 1) a description of management, maintenance, and monitoring actions; 2) cost estimation (i.e., property analysis record [PAR]) and funding mechanism; and 3) the anticipated long-term land manager's name, qualifications, business address, and contact information. Long-term maintenance and monitoring will commence upon completion of the five-year maintenance and monitoring period for the restoration.

Intro  
(cont'd.)

Construction adjacent to occupied vireo habitat will occur outside the breeding season (March 15 to September 15). If avoidance of the nesting season is not feasible, vegetation removal and construction activities may occur if the project biologist conducts a focused survey for active nests within 48 hours prior to work in the area. If the survey identifies an active nest, a minimum 300-foot buffer will be established between construction activities and the active nest, delineated by temporary fencing, and will be in effect throughout construction or until the nest is no longer active. Construction noise levels at the riparian canopy edge will be kept below 60 dBA Leq from 5 a.m. to 11 a.m. during peak nesting periods (March 15 to July 15). For the balance of the day/season, the noise levels will not exceed 60 decibels, averaged over a one-hour period. Noise levels will be monitored and monitoring reports will be provided to the City and Wildlife Agencies. Noise levels in excess of this threshold will require written concurrence from the Wildlife Agencies and may require additional minimization/mitigation measures.

Section 5.6.5 of the DEIR identifies additional measures to avoid and minimize impacts to sensitive habitats and species.

**The Wildlife Agencies' Comments**

The following comments address our concerns about the proposed project and its consistency with the HMP.

Comment Letter C  
(cont'd.)

Ms. Shannon Werneke (FWS/CDFG-SDG-10B0054-11TA0039)

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1. Since 2005, the Wildlife Agencies have expressed in writing and in meetings concerns about the proposed project-related loss of the floodplain of Agua Hedionda Creek, and the implications of that loss relative to the biological importance of floodplains per the HMP (e.g., for wildlife movement along the riparian corridor and its buffers). We remain concerned that the loss of the floodplain area associated with the proposed affordable housing complex is proposed to be compensated primarily outside of the floodplain of Agua Hedionda Creek (DEIR Figures 5.12-3 and 5.12-9). We disagree with the assertion in the DEIR that the biological benefits conferred to Core Area 3 and the riparian habitat associated with Little Encinas Creek by the replacement of the existing RV Storage/Garden Area with Basin BJ offset the proposed losses of the Agua Hedionda Creek floodplain.<sup>1</sup> While we acknowledge those biological benefits, this assertion disregards the biological premise of the HMP's emphasis on the importance of avoiding floodplain losses<sup>2</sup> - that the location of the floodplain loss is key, particularly because riparian systems (including their floodplains) function as wildlife corridors; it is generally infeasible to offset the loss of a segment of a wildlife corridor by improving another corridor. Furthermore, because the relocation of the existing RV Storage/Garden Area and the construction of Basin BJ are components of the previously approved Calavera Hills Master Plan project, it is inappropriate to apply their effects as offsetting the impacts from the proposed project.

This being said, we recognize that, even if the two major areas (i.e., affordable housing complex and the RV Storage/Garden Area) of the proposed floodplain loss were restored rather than developed, they would provide limited benefit for wildlife movement. We also recognize that the proposed designation of approximately 5.05 acres of parcel 209-060-71 as biological open space will benefit wildlife movement assuming this area is protected by a conservation mechanism (comment #2), and the buffer is restored (comment #3). However, we wish the City to take note that our acceptance of the proposed loss of the Agua Hedionda Creek floodplain in this instance does not apply to any future proposed losses of the floodplain in Zones 14, 15, 20, and 25.

2. The approximately 5.05 acres of upland habitat on parcel 209-060-71 of the CCRC proposed to be designated as biological open space includes the 100-foot buffer to Agua Hedionda Creek and the area to be excavated to provide 0.30-acre of floodplain. No conservation mechanism (i.e., conservation easement, restrictive covenant) is proposed to be placed over this open space area in conjunction with the proposed project.
  - a. The entire area not developed along Agua Hedionda Creek adjacent to and surrounding the 5.05 acres of upland habitat on parcel 209-060-71 should also be designated as biological open space and protected by a conservation mechanism.
  - b. The City's document entitled *Guidelines for Riparian and Wetland Buffers* (TAIC, April 9, 2010) states, "As a condition of project approval, the Protection and Separation Zones shall become part of the HMP Preserve, and shall be subject to all requirements pertaining to

C-1

C-2a

C-2b

1. To compensate for the proposed loss of 5.09 acres of floodplain, no net loss of floodplain acreage or volumetric capacity will be achieved by (a) the construction of Basin BJ which will provide approximately 4.79 acres of floodplain during the First Phase, and (b) the excavation of a 0.30-acre portion of parcel 209-060-71 during the Second Phase.
2. One of the HMP's planning standards for Zone 15 is, "Conserve all riparian habitats onsite, and prohibit fill or development within the existing flood plain except where required for Circulation Element roads, Drainage Master Plan facilities, or other essential infrastructure."

RESPONSE TO COMMENT LETTER FROM U.S. FISH AND WILDLIFE SERVICE AND CALIFORNIA DEPARTMENT OF FISH AND GAME (JOINT LETTER), SIGNED BY KAREN A. GOEBEL, ASSISTANT FIELD SUPERVISOR AND STEPHEN M. JUAREZ, ENVIRONMENTAL PROGRAM MANAGER, DATED NOVEMBER 10, 2010 (COMMENT LETTER C) (continued)

Response to Comment C-1:

In response to a February 2, 2011 meeting, and follow-up discussions, with the Wildlife Agencies and City of Carlsbad, the Applicant has taken significant steps to address Wildlife Agency concerns with respect to the City HMP consistency analysis. An Addendum to the Biological Resources Technical Report has been prepared to document the refinement of the No Affordable Housing Site Alternative (Section 6.4 of the Draft EIR) and was used to provide a more detailed comparative analysis of the refined No Affordable Housing Site Alternative with the proposed project. A copy of the Addendum is included as Appendix K1 to the Final EIR. The Refined No Affordable Housing Site Alternative is the Applicant and City staff recommended project. Specifically, the proposed changes to the project are as follows:

1. The affordable housing site (APN 209-060-68) has been withdrawn from the project and will be left as-is without any physical changes to existing land uses or zoning. Overall, project impacts to biological resources and floodplain fill are reduced as a result of this modification. The Applicant is proposing to satisfy the affordable housing obligation per the City of Carlsbad - Housing & Neighborhood Services letter dated April 2011 by means of: 1) onsite within the Planned Senior Community development (CCRC site); or 2) an offsite location to be determined. No additional impacts to biological resources would result from either alternative solution for providing the required affordable housing element.
2. The Equestrian Parcel (APN 209-060-71) has been withdrawn from the project and left as-is without any physical changes or changes to existing General Plan Land Use designations or zoning due to HMP compliance conflicts. Impacts to biological resources and floodplain are reduced as a result of this modification.
3. A second, less impacting storm drain alternative (Storm Drain Alternative 2) to the proposed project has been identified. Under this alternative, the storm drain alignment would be placed within the existing paved road in the Rancho Carlsbad community and connect to Agua Hedionda Creek via an existing box culvert in Rancho Carlsbad Drive. Thus, this alternative would eliminate impacts to CDFG regulated streambank, eliminating all wetland or regulated watercourse impacts from the project. Both storm drain alignments analyzed for the proposed project (Proposed and Alternative 1) will also remain as an option for the construction of the offsite storm drain under the refined alternative.

RESPONSE TO COMMENT LETTER FROM U.S. FISH AND WILDLIFE SERVICE AND CALIFORNIA DEPARTMENT OF FISH AND GAME (JOINT LETTER), SIGNED BY KAREN A. GOEBEL, ASSISTANT FIELD SUPERVISOR AND STEPHEN M. JUAREZ, ENVIRONMENTAL PROGRAM MANAGER, DATED NOVEMBER 10, 2010 (COMMENT LETTER C) (continued)

Response to Comment C-1: (cont'd.)

4. Basin "BJ" had been identified as a location to offset floodplain fill impacts resulting from the CCRC development (i.e., nonessential infrastructure) into the 100-year floodplain. As an alternative to the Basin "BJ" floodplain offsetting area option, floodplain creation on the Equestrian Parcel (APN 209-060-71) has been identified as an option to offset functional impacts of the floodplain fills proposed. If this alternative scenario is selected, floodplain would be created by lowering a portion of this parcel. This would be a change consistent with the potential uses of the site for compensatory mitigation for College Boulevard Reach "A."

To ensure proper evaluation of both the proposed project and the Refined No Affordable Housing Site Alternative the below responses will generally respond to the proposed project first followed by a response specific to the refined alternative.

Impacts to Floodplain

The underpinning premise of the concern raised in this comment is that filling of the floodplain in the areas proposed on the CCRC site and the affordable housing site would result in a significant negative affect on functions of Agua Hedionda Creek as a wildlife movement corridor in which the Commenter has linked acceptance of the floodplain fills to the protection and restoration of the Equestrian Parcel (APN 209-060-71). However, the biological analyses conducted for the project identified several conditions regarding the Agua Hedionda Creek corridor that would indicate these floodplain fills would not result in significant impairment to wildlife movement along the creek.

First, the project is located immediately upstream of the Rancho Carlsbad Estates development. This creates a substantial barrier to movement by all but urban tolerant organisms such as coyote and meso-predators. As a result, broad corridors are not necessary to maintain linkage functions along this segment of creek.

Second, the floodplain proposed to be impacted consists of open terrain and generally disturbed lands with low overall suitability as a wildlife movement route. The northwestern portion of APN 209-060-70 currently supports relatively flat open upland terrain consisting of extensive agriculture, disturbed habitat, and urban/developed lands. These lands are located immediately adjacent to the Rancho Carlsbad Estates housing community, approximately 450 feet north of the bed and bank of Agua Hedionda Creek.



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**Response to Comment C-1: (cont'd.)**

The fill area is separated from the creek by a golf course and is approximately 300 south of the bed and bank of Little Encinas Creek in which recreational facilities (i.e., tennis court, bocce ball courts, and grass/field area) occur between the fill area and creek. The filled lands are currently disked/mowed for crop and fallow agricultural purposes on an annual basis. Overall, dense non-native grasses and forbs choke out the lands preventing growth of most native species. The annual mowing and/or disking also prevents the establishment of native perennial species due to loosening of the soil and removal of vegetation. Additional floodplain impacts on the southern portion of the CCRC would be incurred to a canopy of mature eucalyptus woodland, with little to no native understory and supporting existing equestrian uses beneath the canopy. This area is located approximately 150 feet north of the bed and bank of Agua Hedionda Creek and immediately adjacent to the fill slopes of the future College Boulevard Reach "A". The impacted floodplain on the affordable housing site currently supports urban/developed lands. Equestrian stalls and paddocks are located on the land. Sporadic native weedy species can be found onsite, but the majority of the area is comprised of compacted soils, with piles of debris, and little to no vegetation.

Lastly, while the HMP intent of floodplain conservation is to provide protection of swaths of natural lands along riparian corridors, we concur with the commenter that it is prudent to consider the contextual nature of the floodplain when assessing values. Similar to the findings of the Biological Resources Technical Report and Addendum (2010 and 2011, respectively), the commenter has recognized the low corridor values existing in the impact areas, noting that whether the floodplain areas were filled or restored, they would provide limited benefit to wildlife movement. As a result, these fills were not considered to result in a significant impact to wildlife movement corridors or linkages. As such, the focus of offsetting the filling of the floodplain was to ensure 1) no loss of floodplain volume or area from "nonessential infrastructure" as a matter of hydrologic and hydraulic design rather than compensation for loss of wildlife corridor functions and 2) consistency with the City's HMP.

With regard to linking acceptance of the floodplain fills to the protection and restoration of the Equestrian Parcel, the Applicant, in consultation with the City, would propose a change in the Equestrian Parcel's current zoning, Limited Control (LC), to Open Space (OS) so the exiting land use and zone designation are consistent. The rezoning of this site to OS does not necessitate a Biological Open Space or conservation instrument (easement or restrictive covenant) and no buffer restoration is proposed within this parcel under the proposed project.

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**Response to Comment C-1: (cont'd.)**

The site does not serve as habitat mitigation and is planned to retain its present permitted land-use designation for equestrian use.

Impacts from "essential infrastructure" improvements are consistent with the City's HMP and thus do not require compensation/offsetting of floodplain losses. For the proposed project, filling of the floodplain from essential infrastructure is necessary for the relocation of the Rancho Carlsbad RV Parking/Garden parcel (2.34 acres) and the construction of the Rancho Carlsbad Estates emergency access road (0.55 acres). However, filling of the floodplain for the CCRC and affordable housing site under the proposed project would be considered a "nonessential infrastructure", and would require floodplain creation to offset impacts to ensure consistency with the HMP. Impacts from non-essential infrastructure total 2.2 acres.

Under the Refined No Affordable Housing Site Alternative, floodplain fills would be decreased from 5.09 acres to 3.94 acres. Floodplain filling remains necessary for the relocation of the Rancho Carlsbad RV Parking/Garden parcel (2.34 acres), the construction of the Rancho Carlsbad Estates emergency access road (0.55 acres), and that development of the CCRC (1.05 acres). Filling of the floodplain for the CCRC under the refined No Affordable Housing Site Alternative, would be considered a "nonessential infrastructure", and would require floodplain creation to offset impacts to ensure consistency with the City's HMP. As discussed within the above analysis, the focus of offsetting the filling of the floodplain is to ensure 1) no loss of floodplain volume or area from "nonessential infrastructure" as a matter of hydrologic and hydraulic design rather than compensation for loss of wildlife corridor functions and 2) consistency with the City's HMP.

To ensure no loss of floodplain volume as a matter of hydrologic and hydraulic design, detention basins would be created within the western portion of the CCRC site. The creation of the basins would result in net gain of approximately 288,441 cu. ft.

Pursuant to the City's HMP, and as a condition of the HMP Permit, the floodplain area losses which are considered to be as a result of nonessential infrastructure (i.e., the CCRC), must be offset to ensure consistency with the HMP Findings. As discussed in the Final EIR for the proposed project, because the loss of floodplain is associated with hydrology, this loss is proposed to be offset by one of two options:

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**Response to Comment C-1: (cont'd.)**

1. Expansion of the floodplain within the Basin "BJ", which could support up to approximately 4.79 acres of created floodplain (allowing adequate room for a 1:1 area offset). As discussed above, only 1.05 acres of floodplain fill is required to be offset for the nonessential infrastructure associated with the development of the CCRC site. Basin "BJ" is located along Little Encinas Creek and would be constructed in association with the construction of College Boulevard Reach "A" in accordance with the Final EIR for the Calavera Hills Master Plan Phase II, Bridge and Thoroughfare District No. 4, & Detention Basin (RECON 2001, EIR No. 98-02, SCH No. 99111082). The Basin "BJ" is one of several City approved detention basins and would be appropriate to offset filling of the floodplain from nonessential infrastructure as a result of either the proposed project or the Refined No Affordable Housing Site Alternative.

The Basin "BJ" would be constructed using outlet restriction to achieve flood control benefits required by the City. Floodplain gains within the basin would be separately developed via pulling back the existing high creek banks, avoiding impacts to the ordinary high water mark, and ultimately lowering the adjacent area to allow for overbank flooding and peak flow storage. Upon completion of the basin, conveyance of surface flow would continue. The basin would be planted with native upland and wetland vegetation to enhance its functional nature to wildlife use and movement and to be compatible with the adjacent upland preserve lands in Core Area 3 of the HMP preserve.

As a result, construction of the Basin "BJ" is expected to create superior floodplain habitat conditions than existing floodplain conditions that would be impacted by the Dos Colinas Project under the Refined No Affordable Housing Site Alternative. This is as a result both of the habitat conditions to be developed within the Basin "BJ" as well as the spatial context and connectivity to other native habitat areas.

The commenter asserts that the use of the Basin "BJ" for offsetting the impacts of the Dos Colinas would be inappropriate, as this floodplain improvement was previously accounted for in the Calavera Hills Master Plan project, and such credit for the Dos Colinas project could be considered "double-dipping." The City has determined that while Basin "BJ" was identified as a wetland mitigation area for the construction of College Boulevard Reach "A", it was not considered, or intended to act as mitigation with respect to offsetting floodplain filling impacts (which is separate from wetland vegetation impacts) associated with the HMP.

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**Response to Comment C-1: (cont'd.)**

Therefore, the City has determined that it remains to be a feasible location to offset floodplain impacts.

OR

2. As an alternative to the Basin "BJ", the floodplain creation by excavation of the Equestrian Parcel (APN 209-060-71) would accommodate an expansion of floodplain at a 1:1 area ratio necessary to offset floodplain fills resulting from "nonessential infrastructure" (i.e. 1.05 acres). This would be a change consistent with potential future uses of the site for compensatory mitigation. It is believed that this floodplain mitigation would provide a much superior functioning floodplain replacement area to that lost under the Refined No Affordable Housing Site Alternative for three reasons.

First, the Equestrian Parcel (APN 209-060-71) floodplain expansion area would be inundated by regular storm flows, while the area being filled only sees low frequency events at, or near, the 100-year event. This means the area would provide floodplain functions on a more regular basis. Second, the location of the floodplain expansion has a much greater contextual relationship to the creek than does the area being filled (i.e., isolated from the creek by the golf course and separated from the Core Area preserve by the future College Boulevard Reach "A"). Finally, the floodplain expansion within the Equestrian Parcel would benefit from being integrated into the HMP preserve area with adjacent buffering and habitat functions in association with the area's anticipated future wetland mitigation use and associated preservation actions (associated with College Boulevard Reach "A").

In summary, either of the above-referenced options will adequately offset filling within the floodplain for non-essential infrastructure (i.e., 1.05 acres associated with development of CCRC site). HMP Consistency Findings have been prepared for the Refined No Affordable Housing Site Alternative and are included as Appendix K2B to the Final EIR. In addition, implementation of either of the above discussed options will be a requirement of the HMP Permit to ensure consistency with the HMP to offset the floodplain fills from non-essential infrastructure. The City believes that the refinement of the No Affordable Housing Site Alternative as summarized above, and detailed in Section 6.4 of the Final EIR, addresses the concerns outlined by the commenter in Comment C-1.

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**Response to Comment C-2a:**

Figure 3-4 of the Draft EIR Project Description correctly identifies the Equestrian Parcel (APN 209-060-71) as proposed Open Space; however, other areas of the Biological Resources Technical Report and Draft EIR incorrectly state that APN 209-060-71 would be zoned as "Biological Open Space". This was not intended and the Final EIR has been revised to clarify that the parcel would be zoned from Limited Control (LC), which is a holding-place zone within the City's Zoning Ordinance, to Open Space (OS). All non-impacted lands within APN 209-060-71 will be rezoned to OS including Agua Hedionda Creek as illustrated within Figure 5.6-4 of the Draft EIR.

As noted above in Response to Comment C-1, the Equestrian Parcel (APN 209-060-71) has been eliminated from the Dos Colinas Project under the Refined No Affordable Housing Site Alternative, which is the staff and applicant recommended project for consideration by the City Council for adoption and implementation. Therefore, as detailed in the HMP findings prepared for the refined alternative (included as Appendix K2B to the Final EIR), all HMP adjacency standards have been applied to the project site under this refined, environmentally superior, alternative.

**Response to Comment C-2b:**

Prior to addressing the City's document entitled, *Guidelines for Riparian and Wetland Buffers* and the recommendations associated with the document, it is important to address the City's HMP Preserve Components and Assembly – Standards Areas, Zone 15 planning standards (pg. D-79) as these standards supersede the *Guidelines for Riparian and Wetland Buffers*. The zone specific planning requirement states that, "When conversion of agricultural lands to other uses is proposed, set back all development impacts at least 100 feet from existing wetland habitats and require restoration or enhancement in the riparian and buffer areas." Due to the elimination of the Equestrian Parcel from the Dos Colinas Project, the development for the CCRC site is set back greater than 100 feet from Agua Hedionda Creek and its unnamed tributary. As such, any riparian and buffer area to be restored or enhanced is outside of the scope and boundary of the Dos Colinas Project under this alternative.

With respect to the City's document entitled, *Guidelines for Riparian and Wetland Buffers*, the City's design guideline to establish protective buffers for riparian and wetland habitats is recommended to extend a minimum of 100 feet from the outside edge of wetland habitat.

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**Response to Comment C-2b: (cont'd.)**

As stated above, due to the elimination of the Equestrian Parcel from the Dos Colinas Project under this refined, environmentally superior alternative, when measuring the 100-foot distance from the outside edge of Agua Hedionda Creek and its unnamed tributary, the buffer is fully located within the Equestrian Parcel, which has been removed from the Dos Colinas Project under this alternative. Thus, any riparian and buffer area to be restored or enhanced per the *Guidelines for Riparian and Wetland Buffers* is outside of the scope and boundary of the Dos Colinas Project under this alternative.

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preserve management, endowment funding, and the conservation easement" (page 27, emphasis added). Figure 1 in that document indicates that buffers are considered part of the HMP Preserve. Though the buffer comprises only a portion of the proposed CCRC 5.05-acre open space area, since the DEIR contemplates the entire open space area and the adjacent reach of Agua Hedionda Creek as available for mitigation (e.g., restoration, enhancement) for future projects in the City, it is appropriate to protect the entire area with a conservation mechanism. This protection should occur in conjunction with the proposed project and not be deferred until future mitigation occurs. Just as the restrictive covenant proposed for the buffer for the affordable housing complex will accommodate specified uses (e.g., compatible enhancement and maintenance activities), so too can the conservation mechanism for the 5.05-acre area for the CCRC explicitly allow future mitigation activities. Therefore, we request that the final EIR require that the 5.05-acre area on parcel 209-060-71 be protected with a conservation easement or restrictive covenant<sup>3</sup> in conjunction with the proposed project. This will be necessary for the Wildlife Agencies to find the proposed project consistent with the HMP. We include restrictive covenant as an option here, though we need to further discuss this option with the City before it is decided which way to go.

- c. We recommend that the 5.05-acre area on parcel 209-060-71 and the other two areas proposed to be protected by a restrictive covenant or conservation easement be placed under one conservation easement or restrictive covenant that specifies the allowed uses (e.g., creation, restoration, enhancement, maintenance) separately for each of the three areas.

- d. Mitigation Measure (MM) B-14 (DEIR page 5.6-63) requires that all existing structures, including the vacant single-family home, be removed from parcel 209-060-71. Elsewhere, the DEIR mentions only the equestrian structures as those to be removed. However, the DEIR explains that, because this parcel will be designated as open space, and the City's zoning ordinance disallows single-family residences in open space zones, implementation of MM B-14 is necessary to avoid a significant impact (page 5.6-37). In addition, it would be inappropriate for applicants for future projects required to provide mitigation on this parcel also to be obligated to underwrite the cost for and coordinate the removal of any structures. Therefore, we request that the final EIR clarify that MM B-14 is correct, that all structures within biological open space on parcel 209-060-71 will be removed in conjunction with the proposed project, and that the removal will occur outside of the avian breeding season.

- e. The final EIR should be modified to include parcel 209-060-71 in the requirements for the preparation and implementation of a long-term management plan (LTMP) for the other two areas proposed to be protected via a conservation mechanism. Until mitigation associated with future projects is provided on the parcel, the long-term management (LTM) requirements for it can be minimal (e.g., only maintenance [no biological] monitoring and management twice a year for unauthorized entry, trash, fencing, and signage accompanied by sufficient funding for this minimal LTM and contingencies that might come up). The LTM for future mitigation areas on the parcel should build on the minimal LTM already underway.

3. The restrictive covenant would have to run with the land, include all the protective provisions in the Department's template for conservation easements naming the Department as a third party beneficiary, and provide protection equal to that of a conservation easement.

C-2b  
(cont'd.)

C-2c

C-2d

C-2e

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Response to Comment C-2c:

The commenter has recommended that all areas on the Dos Colinas Project site proposed to be preserved via a conservation mechanism are protected under a single mechanism that carries language specific to the allowable uses in each area. It has been determined that the use of a biological conservation easement best fits the needs of the upland and riparian open space areas, and that due to the minor maintenance activities associated with the hydromodification basin on the Affordable Site, a restrictive covenant best suits this location. Section 5.6 of the Final EIR has been updated to clarify the proposed preservation and management of those areas proposed as (OS) Open Space. It should be noted that there is no proposal to incorporate a conservation mechanism over APN 209-060-71 as part of the proposed project.

However, as noted above in Response to Comment C-1, both the Affordable Site (APN 209-060-68) and the Equestrian Parcel (APN 209-060-71) have been withdrawn from the Dos Colinas Project to reflect the implementation of the Refined No Affordable Housing Site Alternative, which is the staff and applicant recommended project for consideration by the City Council for adoption and implementation. As a result, the only area over which a Biological Conservation Easement will be placed is the proposed Parcel 3, which will consist of the onsite open space proposed as part of the refined alternative (See Figure 6.4-16). Here, compensatory mitigation for significant impacts to HMP Habitat Groups B and D (disturbed valley needlegrass grass and Diegan coastal sage scrub, respectively) would occur. Parcel 3 is proposed to be preserved as open space through the recordation of a biological conservation easement, which would be funded through a non-wasting endowment in accordance with Section 21.210.050 of the Carlsbad Municipal Code (Title 21, Chapter 21.210). This action would convert the parcel to a Hardline Conservation Area. The compensatory mitigation actions associated with Parcel 3, including a mitigation, maintenance, and monitoring plan (also referred to as "preserve management plan") as well as a long-term management plan (LTMP) (also referred to as a "permanent preserve management plan") are discussed in detail within the Addendum to the Biological Resources Report and Section 6.4 of the Final EIR.

Response to Comment C-2d:

MM B-14 (which has been renumbered in the Final EIR as MM B-15) is incorrectly drafted in the Draft EIR. The only structure to be removed on the Equestrian Parcel (APN 209-060-71) as an element of project approval is the vacant residential dwelling. Equestrian

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**Response to Comment C-2d: (cont'd.)**

structures are not proposed to be removed from the site under this discretionary action as they remain authorized as an approved use within the proposed OS zoning.

As noted above in Response to Comment C-1, the Equestrian Parcel (APN 209-060-71) has been eliminated from the Dos Colinas Project under the Refined No Affordable Housing Site Alternative, which is the staff and applicant recommended project for consideration by the City Council for adoption and implementation. With the omission of this parcel, the existing onsite structures, including both the residence and equestrian buildings, are not proposed to be removed.

The commenter makes a reference that removal of structures should occur outside the avian breeding season. While the Equestrian Parcel and affordable housing site have been eliminated from the Refined No Affordable Housing Site Alternative, this comment is still applicable to removal of onsite habitats (e.g., disturbed valley needlegrass grassland, Diegan coastal sage scrub, extensive agriculture, eucalyptus woodland, disturbed habitat, and urban/developed) as a result of the refined alternative. The biological analysis within the Addendum and Final EIR include refined project mitigation measures B-4, B-10, B-11, and B-12, to avoid impacts to active bird and/or raptor nests (if present at the time of construction) under the federal MBTA and/or CDFG Code Sections 3503 and 3513.

**Response to Comment C-2e:**

Please refer to the Response to Comments C-2a-c, above.



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f. We would like to discuss with the City the possibility of establishing one non-wasting endowment for the implementation of the LTMP and building on that endowment with the funding needed for the management of future project-related mitigation on parcel 209-060-71, rather than having several separate endowments for the LTM of the parcel.

C-2f

3. The HMP Planning Standards for Zone 15 state, "When conversion of agricultural lands to other uses is proposed, set back all development impacts at least 100 feet from existing wetland habitats and require habitat restoration or enhancement in the riparian and buffer areas." As we have recently discussed with the City in the context of the Rancho Milagro Project, the Wildlife Agencies' interpretation of this language is that it applies not only to the agricultural land but to the entire disturbed or urban/developed habitat within a buffer area. Again, we recognize the net biological benefit of what is essentially a buffer that is wider than 100 feet in the proposed 5.05-acre open space area on parcel 209-060-71 to the north of Agua Hedionda Creek. Therefore, the Wildlife Agencies request that the final EIR require that the (a) HMP requirement apply to the urban/disturbed land comprising only the Protection Zone of the buffer, thereby leaving the Separation Zone and the remainder of the open space available for mitigation for future projects, and (b) restoration be done via the implementation of a restoration plan consistent with the specifications in Section F 2.A. in the HMP. These requirements will be necessary for the Wildlife Agencies to find the proposed project consistent with the HMP.

C-3

4. As we have indicated in the past, the Wildlife Agencies are concerned about the hydromodification/overflow basin proposed within the buffer associated with the affordable housing complex. The DEIR explains that: (a) Agua Hedionda Creek has a great deal of stream bank and bed erosion from the high velocity flows due to urban development throughout the entire watershed, and that the basin would assist in decreasing peak flow volume and velocity within the Creek; (b) the basin is needed for compensation of loss of floodplain capacity and it is not a sedimentation basin; (c) the maintenance of the basin will be limited to as-needed debris and vegetation removal from the inlet and outlet apertures and that these activities do not differ from those required along the Creek at hydrologic control structures; (d) the basin would be planted in manner to create a highly beneficial multi-tiered wetland habitat; and (e) the vegetation in the basin would be allowed to mature and persist as riparian habitat. The northern-most slope of the basin would lie within the Protection Zone (as would the entrance to the basin emergency vehicle turn-around) and would be planted with native riparian habitat dominated by tree species. The Separation Zone would include the remaining portion of the basin and the access path into the basin and a bio-retention strip.

C-4

a. The City's *Guidelines for Riparian and Wetland Buffers* (Guidelines) allow flood control facilities and detention basins within riparian buffers. Though we had received the Guidelines earlier this year, we were not aware of how the City intends to apply them until now, nor had we reviewed them until we reviewed the project-related documentation which cites them. While we agree with some parts of the Guidelines (as evidenced by comments #2a and #5), we are concerned about some of uses they list as allowed in buffers.

We would like to discuss with the City whether the proposed hydromodification/overflow basin is primarily needed to address problems upstream within the watershed (erosional peak flows

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**Response to Comment C-2f:**

We concur with the recommendation to discuss the possibility of establishing one non-wasting endowment for the implementation of the LTMP. This endowment could likely be supplemented with additional funding at the time the Equestrian Parcel is added to the preserve as a means to control costs for management within this reach of the creek. Similarly, it may be possible to assemble multiple conservation areas along this reach of Agua Hedionda Creek under a single management endowment for efficiency, continuity, and cost-control of management.

As noted above in Response to Comment C-1, both the Affordable Site (APN 209-060-68) and the Equestrian Parcel (APN 209-060-71) have been withdrawn from the Dos Colinas Project under the Refined No Affordable Housing Site Alternative, which is the staff and applicant recommended project for consideration by the City Council for adoption and implementation. Under the refined alternative, only the portion of the project site proposed as Parcel 3 (See Figure 6.4-16) will be placed within a Biological Conservation Easement, requiring a LTMP, which would be funded through a non-wasting endowment in accordance with Section 21.210.050 of the City's Code of Ordinances (Title 21, Chapter 21.210). However, due to the potential use of the Equestrian Parcel (APN 209-060-71) as compensatory mitigation for a future project, unrelated to Dos Colinas, it may be possible to place the multiple conservation areas along this reach of Agua Hedionda Creek under a single management endowment for efficiency, continuity, and cost-control of management. The City is amenable to discuss endowments on lands within the project vicinity should a specific opportunity arise.

**Response to Comment C-3:**

The Equestrian Parcel is not proposed to be added to the preserve at this time (in associated with the proposed project) and the proposed CCRC is located more than 100 feet from the riparian corridor of Agua Hedionda Creek. Because the proposed action would alter the zoning of the Equestrian Parcel but not its present use, the removal of a 50-foot Separation Zone and the restoration and inclusion of this area into the preserve would consume considerable existing equestrian use area without the need for this exaction as mitigation for significant environmental impacts.

As stated in Response to Comment C-1, the Equestrian Parcel (APN 209-060-71) has been eliminated from the Dos Colinas Project under the Refined No Affordable Housing Site Alternative, which is the staff and applicant recommended project for consideration by the City Council for adoption and implementation. Therefore, as detailed in the HMP Consistency Findings prepared for the refined alternative (included

**RESPONSE TO COMMENT LETTER FROM U.S. FISH AND WILDLIFE SERVICE AND CALIFORNIA DEPARTMENT OF FISH AND GAME (JOINT LETTER), SIGNED BY KAREN A. GOEBEL, ASSISTANT FIELD SUPERVISOR AND STEPHEN M. JUAREZ, ENVIRONMENTAL PROGRAM MANAGER, DATED NOVEMBER 10, 2010 (COMMENT LETTER C) (continued)**

**Response to Comment C-3: (cont'd.)**

as Appendix K2B to the Final EIR) and as discussed in Response to Comment C-2a, any riparian and buffer area to be restored or enhanced is outside of the scope and boundary of the Dos Colinas Project under this alternative.

**Response to Comment C-4:**

Pertaining to the proposed project, when referencing the basin on the Affordable Housing Site (APN 209-060-68), the Final EIR will be revised to replace "detention basin" with "hydromodification basin". The proposed hydromodification basin within the buffer of the Affordable Housing Site is principally intended to offset hydromodification impacts from the site as required by California Regional Water Quality Control Board, San Diego Region, Order No. R9-2007-0001 and the implementing hydromodification plan Order R9-2010-0066 adopted July 14, 2010. In addition, the location proposed maintains existing floodplain volume after development. The hydromodification function is to promote groundwater recharge that would otherwise be reduced by project paving. It also eliminates contribution to emotional patterns downstream in qualifying events by assuring no increase in runoff volume from the site. This use has been determined to be a compatible and appropriate use within riparian buffer zones within the Guidelines because it is a natural feature of creek corridors that has historically been reduced by fills and development encroachment and it is nearly essential to locate such improvements in areas of concentrated flow, if the maximum efficiency of larger storage basins is to be achieved. Our design includes pre-treatment of site runoff for water quality improvements to prevent introduction of pollutants into the creek. The proposed basin has been designed to be contributory to not only the physical benefits of riparian systems, but by including basin enhancement planting, and long-term conservation and management, it is intended that the basin will further function to provide biological benefits.

The City and Applicant would be willing to discuss options for mitigating hydromodification impacts with the Wildlife Agencies for the proposed project if selected by the City Council; however, the project Applicant has already reviewed alternatives to relocate the hydromodification basin and not found a suitable option that meets the intended purposes, while preserving existing floodplain storage volume peak storm discharge volume to off-set that added by the project; thus, the basin must be located along the Creek. Any basin proposed along the Creek would be located within the 100-foot buffer and would thus encounter the same environmental effects as those identified for the proposed project.

**RESPONSE TO COMMENT LETTER FROM U.S. FISH AND WILDLIFE SERVICE AND CALIFORNIA DEPARTMENT OF FISH AND GAME (JOINT LETTER), SIGNED BY KAREN A. GOEBEL, ASSISTANT FIELD SUPERVISOR AND STEPHEN M. JUAREZ, ENVIRONMENTAL PROGRAM MANAGER, DATED NOVEMBER 10, 2010 (COMMENT LETTER C) (continued)**

**Response to Comment C-4: (cont'd.)**

In addition, these uses of a basin do not detract from the intended purpose of the buffers, instead they contribute to the functionality of the buffers by enhancing the physical functions that are beneficial to maintaining the habitat as well as improving the water quality and on-site and downstream physical, biological, and chemical conditions of riparian systems, we believe this use to be compatible with buffers under the HMP.

As noted in Comment C-1, the Affordable Site (APN 209-060-68) has been eliminated from the Dos Colinas Project under the Refined No Affordable Housing Site Alternative and would be left as-is without any physical changes to existing land uses or zoning. The refined alternative will result in reduced impacts to biological resources and floodplain fill over those identified for the proposed project as detailed above in Response to Comment C-1.

**Comment Letter C**  
(cont'd.)

Ms. Shannon Werneke (FWS/CDFG-SDG-10B0054-11TA0039)

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resulting from hardscape in the watershed) or compensation of the project-related loss of floodplain capacity. If the former, we would like to discuss with the City other options for addressing this problem.

- b. We note that MM B-13 in the DEIR describes the basin proposed in the buffer as a detention basin, while elsewhere the DEIR describes it as a hydromodification/overflow basin, adding to our confusion on whether these features will be appropriate in the buffer.

Because of the concerns identified above, we cannot concur at this time that the placement of the hydromodification/overflow basin in the biological buffer is consistent with the HMP standards for this area. We are available to meet with the City and the applicant to resolve this issue. We would also like to meet with the City to discuss our concerns about the Guidelines.

5. MM B-13 (DEIR page 5.6-62) indicates that the proposed modified buffer between the affordable housing complex and the existing riparian habitat along Agua Hedionda Creek will include a 60-foot fuel modification zone and a detention basin (emphasis added). Section 5.6.4.4.C (page 5.6-55) of the DEIR states that all fuel modification zones "have been evaluated as a permanent impact," and Figure 6 of the project-related *Biological Resources Report* (Merkel & Associates, July 19, 2010) appears to depict the fuel modification zone outside the buffer. Furthermore, the Guidelines prohibit the fuel modification zones within riparian buffers. In addition, the Wildlife Agencies consider fuel modification as an impact and inappropriate activity for within riparian buffers. Therefore, the City should remove mention of the fuel modification zone from MM B-13 in the final EIR.
6. As we discussed briefly during the October 7, 2010, meeting, the final EIR should include an MM that requires that windows and glass doors (if any) on the sides of the affordable housing complex facing or angled towards Agua Hedionda Creek be of non-reflective glass and be treated to prevent indoor light from shining through them (see <http://www.flap.org/film.htm>) to avoid or minimize avian collisions resulting from reflection during the day and disorientation from indoor lighting shining out through windows at dusk and after dark.
7. The DEIR states, "permanent fencing and signs between open space areas and development is included." While the DEIR provides some detail about the fencing for the affordable housing complex, it provides no detail about the fencing for the CCRC. We request that the final EIR include a figure that depicts the locations of the proposed fencing relative to the proposed open space areas, restrictive covenant(s), and conservation easement(s), in a manner that distinguishes the different kinds of fencing proposed.
8. The HMP conditions for coverage for Cooper's hawk include a 300-foot impact avoidance area around active nests sites. We request that the City add a mitigation measure to the final EIR to specifically conform to this requirement.
9. The DEIR contains MMs (e.g., MM B-8 through B-11) that address the need to avoid impacts on active avian nests, but it appears that the MMs do not provide adequate protection for raptors or all

C-4

(cont'd.)

C-5

C-6

C-7

C-8

C-9

RESPONSE TO COMMENT LETTER FROM U.S. FISH AND WILDLIFE SERVICE AND CALIFORNIA DEPARTMENT OF FISH AND GAME (JOINT LETTER), SIGNED BY KAREN A. GOEBEL, ASSISTANT FIELD SUPERVISOR AND STEPHEN M. JUAREZ, ENVIRONMENTAL PROGRAM MANAGER, DATED NOVEMBER 10, 2010 (COMMENT LETTER C) (continued)

**Response to Comment C-5:**

MM B-13 was incorrectly drafted in the Draft EIR and has been deleted as previously composed as it is no longer applicable to the project. The 60-foot fuel modification zone is located outside the buffer as correctly depicted within Figure 6 of the Biological Resources Report.

As noted in Response to Comment C-1, the Affordable Site (APN 209-060-68) has been eliminated from the Dos Colinas Project under the Refined No Affordable Housing Site Alternative and would be left as-is without any physical changes to existing land uses or zoning. An Addendum to the Biological Resources Technical Report has been prepared to document the refinement of the No Affordable Housing Site Alternative (Section 6.4 of the Draft EIR) and was used to provide a more detailed comparative analysis of the Refined No Affordable Housing Site Alternative with the proposed project. A copy of the Addendum and associated HMP Consistency Findings for the refined alternative are included as Appendix KB1 and KB2, respectively, to the Final EIR.

**Response to Comment C-6:**

As noted above, the Affordable Site (APN 209-060-68) has been eliminated from the Dos Colinas Project under the Refined No Affordable Housing Site Alternative, which is the staff and applicant recommended project for consideration by the City Council for adoption and implementation. Therefore, with respect to the refined alternative, no further response is necessary.

**Response to Comment C-7:**

The open space fencing proposed under both the proposed project and the Refined No Affordable Housing Site Alternative would be located between the CCRC and proposed Parcel 3 (See added Figures 5.6-5a and 5.6-5b, and Figure 6.4-18 of the Final EIR) and will be a five-foot lodge-pole fence with brown vinyl chain link. It should also be noted, that fencing will be placed around the detention basins and a noise attenuation wall is proposed along both the eastern property boundary, along College Boulevard, and along the southern boundary of the project for either project design.

**Response to Comment C-8:**

The Biological Resources Technical Report prepared for the proposed project (M&A, 2010) includes the following measure within the Construction Design Measures to Avoid Unanticipated Impacts section of the report (pg. 76):

RESPONSE TO COMMENT LETTER FROM U.S. FISH AND WILDLIFE SERVICE AND CALIFORNIA DEPARTMENT OF FISH AND GAME (JOINT LETTER), SIGNED BY KAREN A. GOEBEL, ASSISTANT FIELD SUPERVISOR AND STEPHEN M. JUAREZ, ENVIRONMENTAL PROGRAM MANAGER, DATED NOVEMBER 10, 2010 (COMMENT LETTER C) (continued)

Response to Comment C-8: (cont'd.)

Least Bell's vireo

- Prior to construction activities, BMPs shall be implemented according to the City's HMP and/or according the Appendix B of the Final MHCP Subarea Plan, Volume II.
- Construction adjacent to the occupied habitat is to occur outside of the vireo breeding season (generally March 15 – September 15). If avoidance of the nesting bird season is not feasible, vegetation removal and construction activities may occur during the restricted work period if the project biologist conducts a focused survey for active nests within forty-eight (48) hours prior to work in the area. If the survey identifies an active nest, a buffer shall be established between the construction activities and the active nest so that nesting activities are not interrupted. The buffer shall be delineated by temporary fencing, and shall be in effect throughout construction or until the nest is no longer active. The buffer shall be a minimum of 300 feet of a listed bird nest. The Applicant may consult with the CDFG to discuss a reduced buffer size if species sensitivity and localized conditions (e.g., width and type of screening vegetation between the nest and the proposed activity, terrain, existing level of human activity within the buffer and in the surrounding area, and existing ambient level) warrant a reduced buffer.
- A modified buffer from occupied vireo habitat is included on the affordable housing development site. This requirement is the same measure as stated above within the Wetlands and Jurisdictional Waters mitigation section.

General Avian Birds

- Construction of the proposed project during the general avian and raptor breeding season (generally January 15 – September 15) shall be conducted only after an initial survey for active nests are completed by the project biologist. One survey must be performed forty-eight (48) hours prior to work in the area. If an active nest is found, no "take" of nesting migratory birds may occur in accordance with regulatory requirements of the federal Migratory Bird Treaty Act (MBTA) and California Fish and Game Codes §3503 and §3513. Based on similar projects, if the survey identifies an active nest, a buffer shall be established between the construction activities and the active nest so that nesting activities are not interrupted.

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**Response to Comment C-8: (cont'd.)**

The buffer shall be delineated by temporary fencing, and shall be in effect throughout construction or until the nest is no longer active. The buffer shall be a minimum of 100 feet of a non-listed nesting migratory bird nest, and 500 feet from an active raptor nest. The Applicant may consult with the CDFG to discuss a reduced buffer size if species sensitivity and localized conditions (e.g., width and type of screening vegetation between the nest and the proposed activity, terrain, existing level of human activity within the buffer and in the surrounding area, and existing ambient level) warrant a reduced buffer.

The language within the revised and renumbered MM B-4 (Phase I) and MM B-10 (Phase II) of the Final EIR will be modified to ensure consistency with the HMP and federal MBTA and California Fish and Game Codes §3503 and §3513. Thus, the buffer shall be a minimum of 300 feet (rather than 500 feet) from an active raptor nest. Additionally, because the potential effects to migratory birds are associated with the entire project development under both the proposed project and the Refined No Affordable Housing Site Alternative, this mitigation measure is applicable to the entire Dos Colinas Project site. In addition, MM-11 and -12 will be updated to reflect consistency with the HMP for the least Bell's vireo and Cooper's hawk, both of which are HMP covered species.

**Response to Comment C-9:**

The commenter made a general observation of the applicability of MM B-8 through MM B-11, as listed in the Draft EIR, to components of the proposed project within this comment. Mitigation measures within the Final EIR have been revised and renumbered to MM B-9 through B-12. The following is a summary of the project components/phases for which these mitigation measures, as numbered within the Final EIR, are necessary to address impacts:

MM B-9 – This measure is not related to avian protection, but is required as a result of impacts to CDFG regulated streambank which would occur from the proposed storm drain channel during the Second Phase of the project. This measure is drafted within the Draft EIR to include enhancement of the riparian open space as well as oversight of construction activities by a monitoring biologist. While all requirements are necessary, this measure has been separated within the Final EIR to clarify and streamline project impacts and corresponding mitigation measures.

**RESPONSE TO COMMENT LETTER FROM U.S. FISH AND WILDLIFE SERVICE AND CALIFORNIA DEPARTMENT OF FISH AND GAME (JOINT LETTER), SIGNED BY KAREN A. GOEBEL, ASSISTANT FIELD SUPERVISOR AND STEPHEN M. JUAREZ, ENVIRONMENTAL PROGRAM MANAGER, DATED NOVEMBER 10, 2010 (COMMENT LETTER C) (continued)**

**Response to Comment C-9: (cont'd.)**

MM B-4 (Phase I) and B-10 (Phase II) – This measure is required to avoid impacts to nesting migratory birds including raptors which could occur from the RV Parking/Garden parcel relocation, CCRC, Affordable Site, sewer access road, and storm drain channel during the Initial and Second Phase of the project in which impacts to could occur.

MM B-11 – This measure is required to avoid impacts to nesting least Bell's vireo and Cooper's hawk (HMP Covered Species) which could occur as a result of construction associated with the CCRC and Affordable Site during the Second Phase of the project. The language within the Draft EIR does not specifically reference the Cooper's hawk; thus, language has been added to the Final EIR specifically referencing the Cooper's hawk in addition to the vireo.

MM B-12 – This measure is a species specific condition required to reduce impacts to least Bell's vireo to a level less than significant.

This information has been updated as necessary in the Final EIR to clarify the applicability of the mitigation measures for project phasing.

With regard to the commenter's request for MM B-9 (as numbered in the Draft EIR), which has been renumbered to MM B-10 for Phase II, and MM B-4 has been added for Phase I, please refer to Response to Comment C-8.

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the areas on and off site where raptor nests may occur.<sup>4</sup> Even though no raptor nests are currently located within the footprint of the proposed project, adjacent eucalyptus woodland and riparian habitats near Little Encinas Creek and Agua Hedionda Creek do support raptor nests (page 5.6-35), and riparian and oak woodland habitat along the unnamed tributary to Agua Hedionda Creek offers potentially suitable habitat for nesting raptors. Therefore, we request that the City modify MM B-9 in the final EIR to (a) apply not only to the CCRC and the affordable housing complex, as it currently does, but to all construction activities associated with all the on and offsite elements of the project, and (b) include the following language.

*The initial surveys should begin not more than three days prior to the beginning of construction activities. During construction, no activity should occur within 300 feet of active nests, unless measures are implemented to avoid noise-related and line-of-sight disturbances to the nesting birds. Even with such measures implemented, if the project biologist observes disturbance of the nesting activities the culpable activities shall be suspended until the affected birds have completed their breeding activities.*

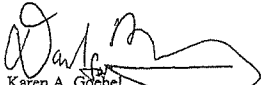
10. MM B-4 (page 5.6-59) indicates that the location of the mitigation for the losses of valley needle grassland and coastal sage scrub would be within biological open space. Please modify MM B-4 in the final EIR to reflect that this open space will be protected by a conservation easement or restrictive covenant.


11. Please modify MM B-10 in the final EIR so it applies after, not prior to, the issuance of the grading permit (i.e., remove the initial phrase from the MM).

12. We defer to the Department of Fish and Game 1600 staff to determine the preferred alternative for the proposed offsite storm drain based on minimizing the impacts on Agua Hedionda Creek.

The Wildlife Agencies appreciate the opportunity to comment on the DEIR. We look forward to working with the City and applicant to ensure that the proposed project is consistent with the HMP. If you have any questions regarding this letter, please contact Janet Stuckrath (Service) at (760) 431-9440 or Libby Lucas (Department) at (858) 467-4230.

Sincerely,

  
Karen A. Goebel  
Assistant Field Supervisor  
U.S. Fish and Wildlife Service

  
Stephen M. Juarez  
Environmental Program Manager  
California Department of Fish and Game

cc: Darren Bradford, Department of Fish and Game

4. It is not clear if MM B-8 would apply to all of parcel 209-060-71, which supports a mature canopy of eucalyptus woodland, or to all construction activities that might disrupt breeding activities. It is not clear what would constitute "take" under MM B-9, and MM B-9 does not require the establishment of buffers between construction activities and active nests found by the project biologist during initial surveys. Also, MM B-10 applies only to vireo and only to the affordable housing complex.

C-9  
(cont'd.)

C-10

C-11

C-12

C-13

RESPONSE TO COMMENT LETTER FROM U.S. FISH AND WILDLIFE SERVICE AND CALIFORNIA DEPARTMENT OF FISH AND GAME (JOINT LETTER), SIGNED BY KAREN A. GOEBEL, ASSISTANT FIELD SUPERVISOR AND STEPHEN M. JUAREZ, ENVIRONMENTAL PROGRAM MANAGER, DATED NOVEMBER 10, 2010 (COMMENT LETTER C) (continued)

Response to Comment C-10:

As requested by the commenter, MM B-4, renumbered as MM B-5 in the Final EIR, has been updated to reflect that the open space supporting mitigation lands of valley needlegrass grassland and coastal sage scrub on the proposed Parcel 3, shall be protected by a Biological Conservation Easement.

Response to Comment C-11:

As requested by the commenter, MM B-10, renumbered as MM B-11 in the Final EIR, has been revised to apply the measure after issuance of the grading permit.

Response to Comment C-12:

The commenter's deference to CDFG with respect to the offsite storm drain alignment for the project under both the proposed project and the refined alternative, is noted. However, it should be noted that alternatives for the proposed storm drain are contingent on authorization of offsite owners upon selection of a storm drain alignment for the project.

As summarized in the Response to Comment C-1, the Refined No Affordable Housing Site Alternative includes a second storm drain alternative (Storm Drain Alternative 2). Under this alternative, the storm drain alignment would be placed within the existing paved road in the Rancho Carlsbad community and connect to Agua Hedionda Creek via an existing box culvert in Rancho Carlsbad Drive. Thus, if this alternative is selected, it would eliminate impacts to CDFG regulated streambank, eliminating all wetland or regulated watercourse impacts from the project.

Response to Comment C-13:

The City appreciates your attention to this project.



## Comment Letter D



Linda S. Adams  
Secretary for  
Environmental Protection

### Department of Toxic Substances Control

Maziar Movassaghi  
Acting Director  
5796 Corporate Avenue  
Cypress, California 90630



Arnold Schwarzenegger  
Governor

November 9, 2010

Mr. John Rimbach  
West Senior Living R/E, LLC  
6005 Hidden Valley Road, Suite 290  
Carlsbad, California 92011

#### NOTICE OF PREPARATION OF DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR DOS COLINAS (SCH# 2009111085)

Dear Mr. Rimbach:

The Department of Toxic Substances Control (DTSC) has received your submitted Notice of Availability of the Environmental Impact Report for the above-mentioned project. The following project description is stated in your document: "The proposed Dos Colinas Project includes approximately 55.7 gross acres (51.97 net acres) of land located in the City of Carlsbad, San Diego County. The project would develop a 309-unit Continuing Care Retirement Community (CCRC) and a 29-unit income restricted multi-family development (i.e., apartments) as well as the relocation of Recreational Vehicle storage and garden lot for the residents of the Rancho Carlsbad Mobile Home Park".

Based on the review of the submitted document DTSC has the following comments:

- 1) The EIR should evaluate whether conditions within the project area may pose a threat to human health or the environment. Following are the databases of some of the regulatory agencies:
  - National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S. EPA).
  - Envirostor (formerly CalSites): A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below).
  - Resource Conservation and Recovery Information System

D-1

#### RESPONSE TO COMMENT LETTER FROM DEPARTMENT OF TOXIC SUBSTANCES CONTROL, SIGNED BY AL SHAMI, PROJECT MANAGER, DATED NOVEMBER 9, 2010

##### Response to Comment D-1:

EIR Section 5.10, Hazardous Materials and Hazards, addresses whether conditions in the project area may pose a threat to human health or the environment. Phase I Environmental Site Assessments (ESA), which included research and review of applicable regulatory databases, were prepared for the project site, including both the CCRC site (APNs 209-060-70 and 209-060-71) and the affordable housing site (APN 209-060-68). These reports have been included as Appendix I1 and I2, within both the Draft and Final EIR.

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**Comment Letter D**  
(cont'd.)

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(RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.

- Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
- Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
- GeoTracker: A List that is maintained by Regional Water Quality Control Boards.
- Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
- The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).

- 2) The EIR should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC would require an oversight agreement in order to review such documents.
- 3) Any environmental investigations, sampling and/or remediation for a site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including any Phase I or II Environmental Site Assessment Investigations should be summarized in the document. All sampling results in which hazardous substances were found above regulatory standards should be clearly summarized in a table. All closure, certification or remediation approval reports by regulatory agencies should be included in the EIR.
- 4) If buildings, other structures, asphalt or concrete-paved surface areas are being planned to be demolished, an investigation should also be conducted for the presence of other hazardous chemicals, mercury, and asbestos containing materials (ACMs). If other hazardous chemicals,

**D-1**  
(cont'd.)

**D-2**

**D-3**

**D-4**

**RESPONSE TO COMMENT LETTER FROM DEPARTMENT OF TOXIC SUBSTANCES CONTROL,  
SIGNED BY AL SHAMI, PROJECT MANAGER, DATED NOVEMBER 9, 2010 (continued)**

**Response to Comment D-2:**

As stated in the Draft EIR (page 5.10-3), the CCRC site has been historically used for agricultural activity, possibly even before 1928. Agricultural activity during that time potentially utilized organochlorine pesticides such as DDT, chlordane, and metal-based pesticides. These pesticides are known to have the potential to remain detectable in the subsurface soil, but it is likely to be considered *de minimis* and under would not generally present a material risk of harm to the public health or the environment subject to an enforcement action by governmental agencies. As a precautionary measure to future senior citizen residents, facility visitors, and construction workers, limited soil sampling (i.e., Phase II ESA) was recommended in the Phase I ESA.

The Phase II ESA, which is included as Appendix I3 on the CD attached to both the Draft and Final EIRs, included soil sampling to assess the possible presence of pesticides on the northern parcel of the CCRC site (APN 209-060-70). No concentrations of organochlorine pesticides were reported and concentrations of arsenic fall within the range of normal background concentrations of arsenic found in California's soils. Therefore, no further assessment or remediation is required.

**Response to Comment D-3:**

A Phase I ESA and Phase II ESA were performed for the northern parcel (APN 209-060-70) of the CCRC site and the affordable housing site (APN 209-060-68), and included as Appendix I1 and I3 to this EIR, respectively. A Phase I ESA was performed for the southern parcel (APN 209-060-71) of the CCRC site (Appendix I2). The findings and recommendations of these Phase I and Phase II ESAs are summarized in EIR Section 5.10 Hazardous Materials and Hazards. Please refer to Responses to Comments D-1 and D-2, above.

**Response to Comment D-4:**

As noted in the Phase I prepared for the southern CCRC parcel (APN 209-060-71), there is an existing residence and equestrian buildings that are over 50 years old. However, under the proposed project only the existing residence is proposed for demolition, as it will no longer conform to the zoning on the site upon approval of the zone amendment proposed. Mitigation Measure HM-2 (page 5.10-19 of the Draft EIR) requires that "prior to demolition of the vacant home, an asbestos and lead-based paint survey shall be performed and, if applicable, a mitigation report prepared and implemented. The mitigation report shall identify appropriate clean-up and disposal requirements necessary to avoid impacts related to asbestos and lead-based paint." With this mitigation measure, if contaminants are encountered, they would be remediated in compliance with California environmental regulations and policies.

**RESPONSE TO COMMENT LETTER FROM DEPARTMENT OF TOXIC SUBSTANCES CONTROL,  
SIGNED BY AL SHAMI, PROJECT MANAGER, DATED NOVEMBER 9, 2010 (continued)**

**Response to Comment D-4: (cont'd.)**

It should be noted that the Refined No Affordable Housing Site Alternative does not include this parcel in the project study area. This alternative is recommended by both City staff and applicant for consideration by the City Council for adoption and implementation. Therefore, the potential impact is avoided and the mitigation measure is not applicable under the refined alternative.

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(cont'd.)

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- lead-based paints (LPB) or products, mercury or ACMs are identified, proper precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies.
- 5) Future project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination.
- 6) Human health and the environment of sensitive receptors should be protected during any construction or demolition activities. If necessary, a health risk assessment overseen and approved by the appropriate government agency should be conducted by a qualified health risk assessor to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.
- 7) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If it is determined that hazardous wastes will be generated, the facility should also obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. Certain hazardous waste treatment processes or hazardous materials, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.
- 8) DTSC can provide cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies that are not responsible parties, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA or VCA, please see [www.dtsc.ca.gov/SiteCleanup/Brownfields](http://www.dtsc.ca.gov/SiteCleanup/Brownfields), or contact Ms. Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489.

**D-4**  
(cont'd.)

**D-5**

**D-6**

**D-7**

**D-8**

**RESPONSE TO COMMENT LETTER FROM DEPARTMENT OF TOXIC SUBSTANCES CONTROL,  
SIGNED BY AL SHAMI, PROJECT MANAGER, DATED NOVEMBER 9, 2010 (continued)**

**Response to Comment D-5:**

As noted above in Response to Comment D-2, onsite soils have been tested and do not contain levels of contaminants that would require further testing or remediation onsite. The earthwork (cut/fill) quantities for the proposed project and the Refined No Affordable Housing Site Alternative would be balanced onsite; therefore, no import or export of soils would be required.

**Response to Comment D-6:**

Please refer to Responses to Comments D-1, D-2 and D-4, above, with regard to the analysis of the potential risk to human health and potential for release of hazardous materials from the project and associated mitigation.

**Response to Comment D-7:**

As stated in the Draft EIR, operation of the CCRC would involve the routine use and storage of hazardous materials and hazardous waste, including medical waste. All storage, handling, transport, emission and disposal of hazardous substances will be in full compliance with local, State, and Federal regulations including California Health and Safety Code, Division 20, Chapter 6.5 and California Code of Regulations, Title 22, Division 4.5, as referenced in this comment.

Significant quantities of hazardous wastes will not be generated from operation of the proposed project; therefore, a United States Environmental Protection Agency Identification Number is not anticipated to be required. The project applicant will obtain and submit, as required, the appropriate paperwork for authorization from the local Certified Unified Program Agency (CUPA).

**Response to Comment D-8:**

This comment relates to the provision of cleanup oversight by the DTSC and does not raise issues with regard to the adequacy of the EIR. Comment noted and no further response is necessary.

Comment Letter D  
(cont'd.)

Mr. John Rimbach  
November 9, 2010  
Page 4

If you have any questions regarding this letter, please contact me at  
[ashami@dtsc.ca.gov](mailto:ashami@dtsc.ca.gov), or by phone at (714) 484-5472.

Sincerely,



Al Shami  
Project Manager  
Brownfields and Environmental Restoration Program

cc: Governor's Office of Planning and Research  
State Clearinghouse  
P.O. Box 3044  
Sacramento, California 95812-3044  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

CEQA Tracking Center  
Department of Toxic Substances Control  
Office of Environmental Planning and Analysis  
P.O. Box 806  
Sacramento, California 95812  
[ADelacr1@dtsc.ca.gov](mailto:ADelacr1@dtsc.ca.gov)

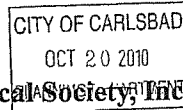
CEQA # 3020

## Comment Letter E



### San Diego County Archaeological Society, Inc. Environmental Review Committee

18 October 2010



To: Ms. Shannon Werneke  
Planning Department  
City of Carlsbad  
1635 Faraday Avenue  
Carlsbad, California 92008-7314

Subject: Draft Environmental Impact Report  
Dos Colinas  
EIR 09-01

Dear Ms. Werneke:

I have reviewed the cultural resources aspects of the subject DEIR on behalf of this committee of the San Diego County Archaeological Society.

Based on the information contained in the DEIR and its Appendix F, we agree with the impact analysis for cultural resources. We also are in agreement with a requirement for archaeological and Native American monitoring of the grading associated with the project. However, the wording of portions of DEIR mitigation measures CR-1, CR-2 and CR-3 have suffered from having clearly been written by person(s) with no knowledge or understanding of archaeology.

The most striking example of this is CR-2, which calls for monitoring to "be performed by knowledgeable San Dieguito Complex, La Jolla Complex, Luisenos or archaeologists." As indicated in Section 3.2.1 of Appendix F, the San Dieguito and La Jolla complexes are cultural traditions dating from approximately 10,000 years ago to 2000-2500 years ago. It makes no sense to suggest monitoring should be by San Dieguito Complex or La Jolla Complex people. And it is essential that the monitoring be by archaeologists and Native American monitors, not either/or.

On the other hand, some of the proposed text, particularly the second paragraph of CR-1, is quite good and should be retained.

We suggest the City work with the project proponent's archaeologist to develop mitigation measures that are more coherent and comprehensive.

Alternatively, the City could revise the cultural resources mitigation measures to draw upon the wording of model conditions developed by the San Diego Archaeological Center in 2007,

E-1

E-2

E-3

E-4

RESPONSE TO COMMENT LETTER FROM SAN DIEGO COUNTY ARCHAEOLOGICAL SOCIETY, INC., SIGNED BY JAMES W. ROYLE, JR., CHAIRPERSON, DATED OCTOBER 18, 2010 (COMMENT LETTER E)

#### Response to Comment E-1:

This comment provides introductory remarks and notes the commenter's agreement with the requirement for archaeological and Native American monitoring that has been included as mitigation for the project. Comment noted and no further response is necessary.

#### Response to Comment E-2:

In order to address the concerns identified in this comment, Mitigation Measures CR-1 through CR-3 as identified in the Draft EIR on pages 5.7-4 and 5.7-5, have been revised by the City in consultation with Brian F. Smith and Associates, the project archaeologist, and replaced with Mitigation Measures CR-1 A. through E., to read as follows:

Replacement Mitigation Measures CR-1 A. through E.:

CR-1 Prior to the issuance of a grading permit, any development for the CCRC site (including the RV storage and garden area) and the affordable housing site will require the implementation of an Archaeological Monitoring Program as a mitigation measure. This program will provide the means to ensure that any historic or prehistoric resources that may be encountered during grading of the project are identified, evaluated, and subjected to mitigation measures, if necessary. The monitoring program will be directed by an individual approved by the City and who meets the minimum qualifications for Principal Investigator listed in 36 CFR 61 under the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation. The archaeologist will be qualified in site identification, significance evaluation of archaeological deposits, consultation with regulatory agencies, and to plan site evaluation and mitigation activities. The qualified archaeologist must implement the grading monitoring program to mitigate potential impacts to undiscovered buried archaeological resources to the satisfaction of the City of Carlsbad. The on-site monitors shall be experienced archaeologists operating under the direction of the Principal Investigator. The basis for this requirement is that any construction within the APE may include areas where potentially important buried cultural deposits could be discovered. In order to identify any significant and previously undocumented cultural deposits, the monitoring program will require the presence of an archaeological monitor, as well as a Luiseno Native American monitor, during all grading and excavation associated with the CCRC site and the affordable housing site. This program shall include, but shall not be limited to, the following actions:

P.O. Box 81106 • San Diego, CA 92138-1106 • (858) 538-0935

RESPONSE TO COMMENT LETTER FROM SAN DIEGO COUNTY ARCHAEOLOGICAL SOCIETY,  
INC., SIGNED BY JAMES W. ROYLE, JR., CHAIRPERSON, DATED OCTOBER 18, 2010  
(COMMENT LETTER E) (continued)

Response to Comment E-2: (cont'd.)

- A. Prior to project commencement, the qualified Principal Investigator and Native American monitor shall attend the pre-grading meeting with the contractors to explain and coordinate the requirements of the monitoring program.
- B. During the cutting or excavation of previously undisturbed deposits, archaeological monitor(s) and Native American Observers shall be on site full-time to perform inspections of the excavations. The number of monitors will depend on the rate of excavation, the number of areas being graded at any one time, the materials excavated, and the presence and abundance of artifacts and features.
- C. In the event that previously unidentified and potentially significant cultural resources are discovered, the monitoring archaeologist shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow evaluation of potentially significant cultural resources. The Principal Investigator shall contact the City of Carlsbad representative at the time of discovery. The Principal Investigator, in consultation with City staff, shall determine the significance of the discovered resources. For any significant cultural resources discovered during monitoring of grading, further mitigation measures (data recovery) will be necessary to complete the impact mitigation. A detailed description of the additional mitigation measures will be prepared by the consulting archaeologist and approved by the City, prior to implementation. Isolates and clearly non-significant deposits will be minimally documented in the field and the monitored grading can proceed.
- D. If any Native American burials, human skeletal or other remains including associated grave goods are discovered, the Principal Investigator shall contact the County Coroner and the City representative for the project immediately. In the event that the remains are determined to be of Native American origin, the Most Likely Descendant (MLD, as identified by the Native American Heritage Commission, shall be contacted in order to determine proper treatment and disposition of the remains.

RESPONSE TO COMMENT LETTER FROM SAN DIEGO COUNTY ARCHAEOLOGICAL SOCIETY, INC., SIGNED BY JAMES W. ROYLE, JR., CHAIRPERSON, DATED OCTOBER 18, 2010  
(COMMENT LETTER E) (continued)

Response to Comment E-2: (cont'd.)

- E. All cultural material collected during the grading monitoring program shall be processed and curated according to current professional repository standards. The collections and associated records shall be transferred, including title, to an appropriate curation facility within San Diego County, to be accompanied by payment of the fees necessary for permanent curation. If the Native American representatives request that artifacts be repatriated to the local Native American community, this shall be conducted as directed by the City.
- F. Complete and submit to the satisfaction of the City, a final monitoring report for the project that documents the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program. However, in the event that no cultural resources are discovered, a brief letter to that effect shall be sent to the City by the Principal Investigator that the grading monitoring activities have been completed. Regardless, the report shall include any updated Archaeological Site forms which must also be submitted to the South Coastal Information Center.

To ensure that the project is responsive to the request for Native American monitoring during construction, the following mitigation measure was retained from those included in the Draft EIR:

- CR-2** Prior to commencement of grading of the CCRC site (including the RV storage and garden area) and Affordable Housing Site, the developer shall enter into a pre-excavation agreement with a representative of the San Luis Rey Band of Mission Indians. The purpose of the agreement will be to formalize monitoring requirements and procedures for the treatment of Native American human remains, burial, ceremonial or cultural sites that may be uncovered during any ground disturbance activity.

**Response to Comment E-3:**

The commenter has noted that the requirement for curation of artifacts, as detailed in the second paragraph of CR-1 in the Draft EIR, should be retained in any revision to the project mitigation. As stated above in the revised CR-1 E., curation of artifacts collected during grading monitoring is required.



**RESPONSE TO COMMENT LETTER FROM SAN DIEGO COUNTY ARCHAEOLOGICAL SOCIETY,  
INC., SIGNED BY JAMES W. ROYLE, JR., CHAIRPERSON, DATED OCTOBER 18, 2010  
(COMMENT LETTER E) (continued)**

**Response to Comment E-4:**

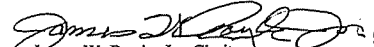
As noted above in the Response to Comment E-2, replacement Mitigation Measures CR-1 A. through E. were developed in consultation with Brian F. Smith and Associates, the project archaeologist and were derived from the conditions developed by the San Diego Archaeological Center in 2007, derived from the County of San Diego's adopted standard conditions.

**Comment Letter E**  
(cont'd.)

derived from the County's adopted standard conditions. I have an electronic copy and will forward a PDF of it to you via email. A copy is also available directly from the Center, by contacting the Center Director, Cindy Stankowski, at (760) 291-0370 or [cstankowski@sandiegoarchaeology.org](mailto:cstankowski@sandiegoarchaeology.org).

Thank you for this opportunity to participate in the City's environmental review process for this project. Thank you, also, for forwarding the electronic copy of Appendix F, in response to my emailed request.

Sincerely,

  
James W. Royle, Jr., Chairperson  
Environmental Review Committee

cc: Brian F. Smith & Associates  
SDCAS President  
File

E-4  
(cont'd.)

E-5

RESPONSE TO COMMENT LETTER FROM SAN DIEGO COUNTY ARCHAEOLOGICAL SOCIETY, INC., SIGNED BY JAMES W. ROYLE, JR., CHAIRPERSON, DATED OCTOBER 18, 2010  
(COMMENT LETTER E) (continued)

**Response to Comment E-5:**

This comment concludes the letter and does not raise issues with regard to the adequacy of the EIR. Comment noted and no further response is necessary.

Comment Letter F



RECEIVED

NOV 05 2010

CITY OF CARLSBAD  
PLANNING DEPT

Nov 5, 2010

Shannon Werneke, Planner  
Carlsbad Planning Department  
1635 Faraday Avenue  
Carlsbad, CA 92008

Subject: Comments on DEIR  
Dos Colinas Project

Dear Ms. Werneke:

These comments on the Draft EIR for the Dos Colinas Project are made on behalf of Preserve Calavera. Preserve Calavera is a grassroots conservation organization whose goal is to preserve, protect and enhance the natural resources of coastal North San Diego County. Our primary concerns with the proposed Dos Colinas project are its impacts on the Agua Hedionda watershed and associated sensitive habitat and wildlife movement corridors.

F-1

Our two priority issues are the inadequate buffers for wetlands and the impacts from the affordable housing site.

The proposed wetlands buffers do not include all of the creek/tributaries on the project site, ignore the importance of connectivity with upstream high quality habitat areas, and will compromise recovery for listed species. The lack of adequate buffers is of particular concern in this location that is already a flood prone area, and where the nearby open space is already greatly impacted by increasing levels of public use- which will only increase with the addition of hundreds of residential units.

F-2

The affordable housing site is at a key location along Agua Hedionda Creek. This isolated part of the project appears to just be a convenient dumping place for the excess cut material from the CCRC site- allowing the combined project to say grading is in balance when in fact massive changes are proposed to the floodplain and without including this additional parcel fill would be exported.

Modifications can be made to this project that will allow the developer to meet their objectives for an economically viable project while still preserving, and even enhancing, the biological function of the project area and adjacent habitat and watershed.

5020 Nighthawk Way -- Oceanside, CA 92056  
[www.preservecalavera.org](http://www.preservecalavera.org)

RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F)

**Response to Comment F-1:**

This comment provides introductory remarks and provides information on the organization's goals and overall environmental concerns. Comment noted and no further response is necessary.

**Response to Comment F-2:**

Comment F-2 identifies the two priority issues raised by the commenter in this letter on the Dos Colinas Project: inadequate buffers for wetlands; and impacts associated with the affordable housing site. This comment provides introductory comments on the above identified issues, with general conclusory statements on the issues. It is recommended that the applicant make modification to the project that will both preserve the biological function of the adjacent habitat, but also achieve the applicant's objective for an economically viable project. No specific suggestions are included in this comment. The commenter notes in the final paragraph that specific comments on the proposed project, identified with page numbers and section references follow and are intended to clarify the commenter's points and concerns. Responses to the detailed comments are provided below. The comments contained in these paragraphs have been noted.

# Comment Letter F

(cont'd.)

The following are specific comments on the proposed project. Page number/section references should help clarify intent. The space in ( ) is used to distinguish comments (for your convenience in responding). "MM" is used to indicate where an additional mitigation measure or modification is needed to adequately address the adverse environmental impacts that are identified.

## Land Use

( ) Table 3-2 summarizes parking required and parking provided and identifies an excess of 42 parking spaces above the minimum. Even the minimum identified is really excessive for the proposed land use- especially since so much of it will be surface parking and will result in excess impervious cover on the site. Please re-evaluate alternatives to further reduce parking with the objective to minimize the amount of impervious cover. In addition at least part of the proposed parking should be surfaced with permeable materials to be consistent with RWQCB LID guidelines.

( ) This project proposes a significant increase in density over the existing zoning/General Plan. The EPA has issued guidelines that demonstrate how improved land use plans can benefit local watersheds by offsetting this increased density with increased open space. This project has greatly increased the density, with all of the direct and indirect impacts associated with this, but has provided no offsetting increase in open space. More people will have more impacts on the adjacent natural lands and creek. The project needs to be modified to provide some proportionate increase in open space above the minimum required in the HMP- which is just designed to accommodate listed plants and animals. More open space/buffers are needed to offset for the increased public who are using/impacting an ever declining number of open space acres. Failure to do so will result in additional indirect impacts which have not been addressed in the EIR.

( ) The existing zoning allows only 151 residential units but 329 are proposed. The surrounding area will be subjected to much greater impacts from more than doubling site density and no efforts have been made to compensate for these impacts. Such density increases can have an adverse impact on visual impacts ( taller buildings cause shadowing and wind changes in addition to the aesthetics, traffic, air quality, noise, lights and a reduction in nearby single family home property values. The analysis only addressed traffic and air quality. Furthermore the project specifically allows the elimination of covered parking which is a standard condition- further exacerbating visual impacts. Project design needs to be improved to not just meet the CEQA threshold/city minimum requirements, but to enhance them in order to mitigate for this doubling of project density.

( ) Figure 5.1-2 zoning map shows OS (Open Space) as the designation for part of the site but this is not discussed in the text. It appears that this is the flood hazard area. Please clarify this discrepancy between Figure 5.1-2 and the text and clarify if part of this land is zoned open space. If that is the case the proposed project is in conflict with this zoning and this should be called out as an impact.

( ) The affordable housing site is within the Sunny Creek Specific Plan area which is characterized as rural estate residential development. The EIR has not properly evaluated the impact of making such a significant change to this land use- it just concludes that because another affordable housing project was removed from the Specific Plan and re-zoned it would be

F-2

(cont'd.)

F-3

F-4

F-5

F-6

F-7

## RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)

### Response to Comment F-3:

The proposed project (development of CCRC and Sunny Creek affordable site) would include the development of 309 commercial living units and 29 multi-family residential units. Pursuant to the City of Carlsbad parking requirements, the proposed project would need to provide a minimum of 488 parking spaces. The project proposes 530 parking spaces.

With respect to the Professional Care Facility component of the project (i.e. Continuing Care Retirement Community), this requirement is based on the minimum requirements pursuant to Chapter 21.44 of the Zoning Code which requires a minimum of 1.5 spaces per each cottage and independent living unit, 0.45 space per bed provided at the assisted living facility. In addition, the city also used the parking analysis for a similar Professional Care Facility project within the city as a reference. It was determined that the baseline parking requirements identified in the Zoning Code should be a baseline minimum. Please note that the parking is necessary for the residents and visitors of the community, as well as the staff for the independent living units and the assisted living component. Please also note that 52 of the 332 surface parking spaces for associated with the independent living units and the assisted living building are located in a sub-surface parking structure; therefore, less impermeable surface is proposed.

With respect to the affordable housing project the requirements are as follows: 1.5 spaces per each studio or 1 bedroom unit, 2 spaces per unit for each 2 or 3 bedroom unit and 0.25 visitor parking spaces per each unit would be required. The multi-family inclusionary project does not exceed the minimum standards.

EIR Section 6.0, Project Alternatives, evaluates alternatives that would reduce the number of units proposed which would result in the need for fewer parking spaces and impermeable pavement. Under the Existing General Plan Alternative, a total of 159 residential units would be constructed. Under the Refined No Affordable Housing Site Alternative, 305 commercial living units would be constructed and the affordable site would be removed from the development. As compared to the proposed project, this alternative would provide 4 fewer commercial living units and 29 fewer multi-family residential units and, therefore, fewer associated parking spaces.

The applicant has incorporated various Low Impact Design (LID) and water quality treatment features throughout the project. Examples include the use of linear bioretention swales, impervious ribbon gutters, and routing of urban surface runoff through pervious (landscape) areas at several locations throughout the project before being intercepted by storm drains and discharged to the proposed basins.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-3: (cont'd.)**

These LID measures serve as 'disconnects' satisfying SUSMP requirements to help reduce the post-development runoff rates and volumes and to filter runoff through landscape zones, allowing root absorption, evapo-transpiration, and percolation. Together with the installation of the 3 un-lined basins, these methods address both water quality and hydromodification (runoff reduction) requirements.

The applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). Similar LID design measures are included for the refined alternative, which is the recommended project design supported by both City staff and applicant for consideration by the City Council for adoption and implementation. The analysis for the Refined No Affordable Housing Site Alternative has been expanded in the Final EIR in Section 6.4 to provide further comparative analysis with the proposed project.

**Response to Comment F-4:**

Mitigation Measures are proposed where significant effects of the proposed project have been identified. Please note that a density calculation is not required for commercial living units. Further, it should be noted that the proposed Professional Care Facility would generate less traffic (ADTs) than the projected number of single-family residential units at the Growth Management Control Point for the existing RLM General Plan Land Use Designation.

In addition, this comment is incorrect in that no "off-setting" open space has been provided as part of the project. Under the proposed project, the proposed CCRC portion of the project site will provide a total of 1.2 net acres of biological open space (via the designation of a biological conservation easement) and 5.19 net acres of open space (via designation of an open space easement on the equestrian property) immediately adjacent to, and within Agua Hedionda Creek. The affordable housing component of the project would provide 0.67 acres of biological open space adjacent to the Agua Hedionda Creek. In addition, several large detention basins, which will be encumbered with an open space easement, are proposed on the CCRC to create a land use transition and buffer the projects from the adjacent golf course, habitat, and Rancho Carlsbad Estates mobile home community.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-4: (cont'd.)**

In addition, intrusion into adjacent, off-site habitat areas is likely to be far less than would be expected with a single-family residential subdivision. Under the proposed project, 309 units are assisted living/professional care units, which would be occupied by seniors, including 95 beds for non-ambulatory residents. Also, pet restrictions would be likely.

As noted above, the applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). While this refined alternative does still increase the *potential* for increased density of development on the site (i.e. with change from RLM to RM General Plan Land Use designation), the potential direct and indirect impacts to Agua Hedionda Creek are significantly reduced. Furthermore, the elimination of development on the Equestrian Parcel presents a greater buffer between the CCRC development and the offsite wetlands. Where necessary, mitigation is proposed for impacts to onsite biological resources. An Addendum to the Biological Resources Technical Report and associated HMP Findings have been prepared for the Refined No Affordable Housing Site Alternative (See Appendices K2A and K2B, respectively), and those documents have been summarized in greater detail in Section 6.4 of the Final EIR.

**Response to Comment F-5:**

As stated in Section 3.0 Project Description, the project proposes a number of discretionary actions which would allow for the development of 29 multi-family units and 309 commercial living units on the project site. Please note that while a change in the General Plan designation is being proposed in association with the CCRC site, a density calculation is not required for professional care facilities as the units are characterized as commercial living units pursuant Section 21.04.093 of the Carlsbad Municipal Code. With respect to the affordable site, a request to change the General Plan Land Use designation has been requested for the increased density. As the request is discretionary in nature, it requires approval from the Planning Commission and City Council.

With respect to the commenter's concerns regarding taller buildings causing shadowing or changes in wind patterns for the proposed project, it should be noted that with exception to a minimal number of architectural projections primarily associated with elevator access, both the CCRC project and the affordable housing project are proposed at heights which are currently allowed for two story single-family homes outside of the coastal zone (i.e. 35 feet).

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-5: (cont'd.)**

The CCRC buildings are also setback a significant distance from College Boulevard, far less than what would be anticipated for a single-family or multi-family housing development. All cottages proposed to the north and south of the CCRC buildings are single-story, which likely would not be the case for a single-family project.

EIR Sections 5.1 through 5.14 includes analysis of the project effects on land use, traffic/circulation, air quality, greenhouse gas emissions, noise, biological resources, cultural resources, geology/soils, paleontological resources, hazardous materials and hazards, grading and aesthetics, hydrology/water quality, population/housing, and public services and utilities. Where impacts were identified, appropriate mitigation measures have been included. Implementation of the mitigation measures is expected to reduce all significant impacts to below a level of significance.

With regard to the commenter's concern over the change in near-by single-family property values, CEQA does not apply to social or economic effects. Specifically, under Section 15131 of the CEQA Guidelines, economic effects shall not be treated as significant effects on the environment and only must be addressed in an EIR when such economic effects result in a physical change. This comment does not present any evidence that development and operation of the proposed project would result in any economic effects on property values, which would in turn, could result in a physical change to the environment.

The commenter notes that the project does not include covered parking and that visual impacts would result from the open parking design. The Draft EIR analyzed the potential visual effects of the proposed project, including the open parking design for the CCRC and affordable housing sites, and determined that there would be no visual impact on surrounding public views from the project. As noted in the Draft EIR, many of the views of the parking associated with the CCRC and the affordable site as viewed from the east and west, would be screened by a berm and a block wall, as well as the landscaping, along the future extension of College Boulevard Reach "A". In addition, the inclusion of carports may have the effect of creating additional visual impacts since the carports would likely project above the height of the block wall on the affordable housing site.

As applicable to Comment F-5, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71).

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-5: (cont'd.)**

While this refined alternative still includes a request to change the General Plan Land Use designation for the CCRC site, as discussed above, a density calculation is not required for the Professional Care Facility since the units are classified as commercial living units. Pursuant to the analysis in the Refined No Affordable Housing Site Alternative, the potential direct and indirect impacts to environmental issue areas under CEQA are reduced and/or avoided. The Final EIR has been expanded to further clarify the comparison of the refined alternative with the proposed project, and any impacts and associated mitigation measures. Please refer to Section 6.4 of the Final EIR for the expanded discussion and analysis.

**Response to Comment F-6:**

No portion of the senior Professional Care Facility, RV storage or affordable site is currently zoned as "open space" (OS). As noted in the Draft EIR, the properties are currently zoned "Limited Control" (L-C), which is a holding designation until such time when the property is proposed to be developed. The comment appears to refer to the "OS" printed on the map in the hatched area at the southeastern corner of the CCRC site. Further review of this figure shows that the "OS" has a line pointing to the green zoning segment directly south of the Affordable Housing Site, which is outside of the proposed project. Updated graphics to clarify the existing zoning have been prepared for the Final EIR.

**Response to Comment F-7:**

The EIR provides a detailed analysis of land use compatibility associated with the affordable housing site and surrounding land uses. The conclusion that the land use impact is not significant is based on many factors, which includes the fact that an adjacent property was removed from the Specific Plan and developed with a high-density affordable housing project. As provided in the Draft EIR (See pages 5.1-23 through 5.1-24), factors considered in the land use compatibility analysis include adjacent existing and planned land uses, including a major arterial road, physical separation between land uses, proximity of adjacent uses, and buffering techniques such as perimeter walls and landscaping, and building orientation. In addition, neither the Sunny Creek Specific Plan nor the Zoning Code have a provision that identifies a minimum acreage for the specific plan area.

No land use compatibility impact has been identified associated with the project, including the affordable housing project; therefore, dedication of the entire affordable housing site as open space for purposes of mitigating and land use compatibility impact is not necessary.



**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-7: (cont'd.)**

Notwithstanding the above response, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). This refined alternative is the recommended project design supported by both City staff and applicant for consideration by the City Council for adoption and implementation. Under the refined alternative no amendments to the Sunny Creek Specific Plan are proposed and the commenter's concerns are no longer applicable.

# Comment Letter F

(cont'd.)

compatible to do this again. How many acres of land can be removed from the specific plan and be re-zoned from rural estate to affordable housing and leave what remains of the Sunny Creek Specific Plan area as rural estates? The analysis has not properly identified this conflict with existing land use. If such a change is proposed much better mitigation is required to make this compatible with the Sunny Creek Plan. One of the best ways to do this would be to leave the entire affordable housing site as open space.

F-7  
(cont'd.)

( ) Section 5.1-5 identifies the purpose of floodplain regulations as “to promote health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas.” The project area has a long history of flood conditions which have even included fatalities. The proposed project itself (excluding Basin BJ which was evaluated as part of another project) results in a net reduction of floodplain area and will further exacerbate flood conditions. Such extensive alteration of the floodplain, in an area with the confluence of three streams and another tributary is a high risk solution. Prior hydrology evaluations underestimated flooding impacts and resulted in the need for emergency dredging of AH Creek a few years ago.. The city's Master Drainage Plan includes another project to dredge both Calavera and Agua Hedionda Creeks as well as additional impacts from the anticipated on-going need to maintain this channel. The project proposes allowing building in the floodplain through massive land form modifications. The analysis of the project is not consistent with the purpose of the floodplain regulations. This should be identified as an adverse impact that has not been mitigated.

F-8

( ) The western boundary of the affordable housing site is designated a Community Scenic Corridor. The EIR assumes the project will be consistent with this requirement because of perimeter landscaping. There has been no real analysis that supports this conclusion and furthermore the visual simulations failed to even include this. Further analysis and mitigation is required.

F-9

( ) The description of housing compliance does not discuss the relationship of the project to the recently approved Housing Element Update. Please clarify if the 166 independent living units and the 62 single story cottages will qualify as contributing to the city's RHNA for affordable housing, in addition to the 29 designated “affordable housing” units. If so, then the impact on the Housing Element is an indirect impact that requires evaluation in the EIR. If these units do not count then please explain why. One of our concerns is that this appears to be treated inconsistently throughout the document- in some cases treating the units as commercial, and in others as housing. Furthermore if these units could be counted toward the RHNA then this would be an additional project benefit which might help offset some of the other adverse impacts from this density increase.

F-10

## Hydrology

( ) Section 5.14.5.3 under Public Facilities/Drainage says “The project will be required to meet special conditions identified in the LFMP 15(E).” However it is not clear from the text if any of these special conditions were identified nor is there anything in the mitigation measures that seems to reference such conditions. Please clarify what conditions are being referenced and explain how these conditions have been addressed in project mitigation measures.

F-11

( ) Detention Basin BJ was evaluated in EIR 98-02 and the impacts have not been re-evaluated for this project. This project is proposing significant changes to both land use and topography.

F-12

## RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)

### Response to Comment F-8:

The proposed project would not result in a net reduction in floodplain area nor would the project exacerbate flood conditions. Flooding, hydrology, and floodplain impacts are addressed in detail in EIR Section 5.12-Hydrology/Water Quality. EIR Figure 5.12-9 provides a summary of the proposed 100-year floodplain condition (after development of the project). While the area of Detention BJ is included in the quantification of floodplain area lost and gained, the project would allow for the development of the BJ Basin by relocating the existing Rancho Carlsbad RV/Garden site within the proposed project site. In addition, all structures as well as the RV storage lot will be built above the base floodplain elevations, as required by the City's Municipal Code and FEMA. Additionally, the proposed project includes four unlined ponding areas, located within three proposed detention basins to assist with flood control.

As mentioned above, the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce grading and development associated with the development of the proposed CCRC by eliminating the Equestrian Parcel (APN 209-060-71) for the refined alternative project area. Under the Refined No Affordable Housing Site Alternative, the alteration of the Agua Hedionda Creek Floodplain is further reduced over the proposed project. Furthermore, the refined alternative still includes the construction of four unlined ponding areas to assist with flood control at the CCRC site. This refined alternative is the recommended project design supported by both City staff and applicant for consideration by the City Council for adoption and implementation. An Addendum to both the Biological Resources Technical Report and Hydrology studies, as well as associated HMP Findings, have been prepared for the Refined No Affordable Housing Site Alternative (See Appendices K2A, K3, and K2B, respectively), and those documents have been summarized in greater detail in Section 6.4 of the Final EIR.

### Response to Comment F-9:

The commenter notes correctly that the project site is within a Community Scenic Corridor, as it fronts the extension of College Boulevard at both the CCRC and Affordable Housing sites. The commenter's claims however, that the analysis contained within the Draft EIR are unsupported and erroneous. Analysis of the project's conformance with the Scenic Corridor Guidelines can be found within Section 5.1 of the Draft EIR (See pages 5.1-42 and 5.1-43), as well as within Section 5.11.3.3, Grading and Aesthetics (See page 5.11-46). Numerous vantage points representing views of both the CCRC and the Affordable Housing site were prepared as visual simulations in Section 5.11 of the Draft EIR.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-9: (cont'd.)**

Specifically, vantage points 4, and 5 through 8, provide simulated views of the CCRC project; and Figure 5.11-2 illustrates a simulated view looking north, up the extension of College Boulevard with the Affordable Housing site to the east.

An additional vantage point (#9), included as Figure 5.11-14, was added in response to public comments on the Draft EIR, to provide a simulated view of the project from the intersection of College Boulevard and Cannon Road, at the site of the future high school currently under construction. This vantage point shows the future extension of College Boulevard Reach "A" along the CCRC project eastern boundary. The simulated view demonstrates that the northern portion of the CCRC site will be screened by proposed landscaping and walls, and that because the building pads in this portion of the site are below the finished grade for College Boulevard, only the upper portion of the structures and the roof lines would be visible through the vegetation.

As applicable to Comment F-9, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). Because much of the CCRC design in the area of the vantage points is the same as the proposed project, no additional simulations were prepared for the refined alternative in Section 6.4 of the Final EIR, instead, an expanded analysis of the Refined No Affordable Housing Site Alternative with the proposed project was included.

**Response to Comment F-10:**

Due to the nature of the services provided on-site for the CCRC component of the Dos Colinas project, which includes detached cottages, independent living units and an assisted living facility, the city has determined that the project qualifies as a Professional Care Facility with commercial dwelling units, pursuant to CMC Section 21.04.295 and 21.04.093, respectively. A density calculation is not required for professional care facilities or commercial dwelling units. Notwithstanding the above, the city's Housing Policy Team has determined that affordable housing is required to be provided for the Dos Colinas project pursuant to the Growth Management Control Point of the existing RLM General Plan Land Use designation (i.e. to address what would have been required had the site been developed with a single or multi-family residential product).

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-10: (cont'd.)**

In order to satisfy the inclusionary housing obligation for the Dos Colinas development under the Refined No Affordable Housing Site Alternative (i.e. omission of APN 209-060-68 from the project), the city's Housing Policy Team has determined that, as an alternative to the Sunny Creek affordable site, the inclusionary housing requirement can be satisfied either by the designation of 20 of the independent living units on-site or 24 units within the northeast quadrant at a location to be determined prior to approval of the final map. With either scenario, a regulatory agreement would be required which would set the appropriate rental housing costs and the related policies for income qualifications, etc. The affordable units in either scenario would qualify as contributing towards meeting the Regional Housing Needs Assessment (RHNA) for lower income units. Pursuant to the Annual Housing Element Progress Report that was presented to City Council on March 22, 2011, it was disclosed that the affordable component of the Dos Colinas project (in addition to the Quarry Creek project) would address the deficit that exists as a result of the "Bridge at Aviara" (or "Pontebello") application being withdrawn. However, please note that the balance of commercial living units (i.e. anything beyond 20 units on-site or 24 units) at the CCRC will not count towards meeting the city's RHNA.

The Draft EIR does contain analysis of the project's consistency with the General Plan, and more specifically the Housing Element of the General Plan. As noted on page 5.1-27 of the Draft EIR, the project would meet the referenced goals of the Housing Elements, through the provision of diversity of housing and affordable housing opportunities. Similar to the proposed project, and as clarified in the Final EIR, the Refined No Affordable Housing Alternative would also be consistent with the goals of the City's General Plan, and specifically the Housing Element. No modification to the RHNA would be required as a result of the approval or implementation of the proposed project.

**Response to Comment F-11:**

As described in the Draft EIR page 3-47, pursuant to the requirements of the City of Carlsbad's Growth Management Program, Title 21, Chapter 21.90 of the Municipal Code, an amendment to LFMP Zone 15 is proposed in conjunction with the proposed project.

The LFMP Zone 15 amendment is a component of the discretionary approvals for the project; therefore, the special conditions contained within the LFMP Zone 15 amendment would need to be implemented in order for development to proceed.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-11: (cont'd.)**

These special conditions are required as part of the City's Growth Management Plan provisions, and do not constitute mitigation measures identified for significant impacts associated with the proposed project as they are required under existing City ordinance for development within the Zone.

The Refined No Affordable Housing Site Alternative, which is the recommended project design by both City staff and applicant for consideration and adoption by the City Council, would also include an amendment to the LFMP for Zone 15. An amended document has been prepared to reflect the refined alternative and will be provided for consideration by the City Council concurrent with the Final EIR and associated discretionary approvals.

**Response to Comment F-12:**

As the commenter correctly notes, Detention Basin "BJ" was evaluated from an environmental perspective (including land use and topography) as a component of EIR 98-02, Calavera Hills Master Plan Phase II, Bridge and Thoroughfare District No. 4 & Detention Basins (SCH No. 90111082). The Dos Colinas project does not propose any modifications to Basin BJ and would not contribute to Basin "BJ". Therefore, no additional environmental review is required.

However, as it relates to flooding and hydrology, the Draft EIR summarizes the findings of the *Agua Hedionda Creek Hydraulic Analysis for Dos Colinas*, Lyle Engineering, Inc., May 2010, and the *Hydromodification Study for Dos Colinas*, Hunsaker & Associates, March 26, 2010. This study incorporates the existing and proposed topography, and land use assumptions of this project. The Lyle study also delineates updated floodplain limits of the Agua Hedionda Creek. Once constructed, the "as-built" information will be used to update FEMA floodplain maps.

## Comment Letter F

(cont'd.)

There needs to be at least a minimum review of the adequacy of this prior evaluation as it would apply to the changed topography and land use that is now being proposed. This is of particular concern because of the major grading changes that will occur to accommodate this project.

F-12  
(cont'd.)

( ) App J3 Agua Hedionda Creek Hydromodification Analysis May 2010 is not clear whether the on-going dredging and maintenance of Agua Hedionda as included in the Master Drainage Plan of the City of Carlsbad has been included in the analysis. Please confirm that the impacts of this on-going maintenance have been considered.

F-13

( ) TM Drainage Study for Dos Colinas Rev 3/26/10 Sect 1.3 states "this report will exempt sections of the Cantarini Ranch development for those portions of the work, but independent modeling is not included herein." It is our understanding that the approved Cantarini-Holly Springs Project is currently undergoing significant modification and there is no expectation that the project will be built as it was approved several years ago. Please provide further explanation about how the Dos Colinas drainage would be effected if the Cantarini/Holly Springs project is not built and include appropriate mitigation that accounts for the likelihood this adjacent project will not be built as currently approved.

F-14

( ) App J4 Section 1.2 existing conditions states "some portions of the project boundary are not included in any of the five discharge points mentioned as they belong to areas that will have no development and that will sheet flow downstream." The fact that an area does not have development does not necessarily mean that there will be no changes to the flow volumes or velocities. Please confirm that impacts to the entire project area site- not just the 5 designated discharge points will not experience any significant hydromodification- either increased volumes/velocities- or reduced.

F-15

( ) App J4 Section 1.5 states that the "channel screening analysis tool is not available for use at the moment of finishing this report." The date of the report was March 26, 2010 but the date of preparation is unknown. This new tool is expected to be more accurate for assessing channel impacts. Please either redo the analysis using this new tool or provide further justification for why the most recent and accurate assessment methods were not used.

F-16

( ) This project will require permanent post construction BMP's. However, most BMP's success is untested, especially in our local set of conditions. This is now the fifth project in a few thousand feet that impacts the Agua Hedionda watershed and our impaired lagoon. The Carlsbad Watershed Management Plan includes important background information and recommendations. Recent EIR's have chosen to quote standards from the MHCP and HMP, but have ignored the equally as critical watershed issues that are addressed in the Watershed Management Plan and the more recently adopted Agua Hedionda Watershed Management Plan.

F-17

All of these plans are the result of years of local effort- and all should be considered in this analysis- for compliance with guidelines, and as part of cumulative impacts assessment. Consistency with the AH Watershed Management Plan should also be included in the assessment of the project impacts.

### Biological Resources

( ) Biological Resources Report 7/29/10(BR) page 8 says "All of these projects require City Council to approve a financing plan for College Blvd Reach A and Basin BJ." Other places in

F-18

## RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)

### Response to Comment F-13:

As it relates to flooding and hydrology, the Draft EIR summarizes the findings of the *Agua Hedionda Creek Hydraulic Analysis for Dos Colinas*, Lyle Engineering, Inc., May 2010, and the *Hydromodification Study for Dos Colinas*, Hunsaker & Associates, March 26, 2010.

The improved hydrological conditions resulting from on-going dredging and maintenance activities pursuant to the City's Master Drainage Plan, and as covered under U.S. Army Corps of Engineers Permits, have been assumed as part of these studies for the proposed project. No further analysis is necessary.

### Response to Comment F-14:

The commenter incorrectly quotes the drainage study prepared for the project, noting that the report states, "this report will **exempt** sections of the Cantarini Ranch..." The Dos Colinas TM Drainage Study (Appendix J2) actually states, "this report will **excerpt** sections of the Cantarini Ranch..." The sections excerpted provided anticipated development runoff from Cantarini Ranch onto this site so that the onsite drainage system would be designed for the worst-case scenario of existing or developed conditions.

The commenter is correct in the assertion that portions of the Cantarini Ranch/Holly Springs developments are currently under review and may result in changes to the drainage and analysis conducted under the previously-certified EIR. However, because no final proposal is in place, the analysis within the Dos Colinas EIR only needs to rely on the information currently approved with the City. Should changes to the Cantarini Ranch/Holly Springs developments occur as a result of the current review, any addendum or subsequent environmental review will be required to review the Dos Colinas project, or alternative thereto, should it be adopted. If the Cantarini/Holly Springs projects are not built, there will be no impact as the natural condition has also been considered. No further mitigation is determined to be necessary.

### Response to Comment F-15:

The commenter's assertion that the areas noted in the quoted language from the TM Hydromodification Study is incorrect. The project site has been designed so that any change in drainage patterns as a result of the project development would be directed into one of five discharge points; therefore, no change in surface drainage and hydrology outside of the project's limits of disturbance would occur.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-15: (cont'd.)**

The areas within the project site that would not be modified for any reason (e.g., grading, landform modification) would maintain existing surface drainage patterns and no change in flow volumes or velocities. No specific data or analysis was provided by the commenter to require further analysis or mitigation.

**Response to Comment F-16:**

This comment references a statement within the TM Hydromodification Study pertaining to the use of a channel screening tool. Per the county-wide final hydromodification requirements, based on downstream channel conditions, screening tools can be used to make adjustments for sizing hydromodification facilities. However, for this project the study assumed the susceptibility of the downstream channel to be 'high', which is a conservative approach. No further analysis is required. Accurate methods and industry-approved standards were used to provide preliminary assessment provided for use in preparation of the tentative map and the environmental review contained in the EIR. The project will be conditioned to provide final analysis prior to recordation of a final map or issuance of a grading permit. That report will use the appropriate standard of care available at that time to complete calculations and size proposed facilities to satisfy regulatory stormwater requirements.

**Response to Comment F-17:**

The commenter has noted concern with the implementation of project BMPs to address post-construction effects of a project on water quality, specifically with respect to Agua Hedionda Creek, as well as the cumulative effect of various projects within the vicinity of Dos Colinas that may have an adverse effect on water quality. The project includes the use of Low Impact Development (LID) strategies and several permanent post-construction BMP's based on California Stormwater Quality Association (CASQA) guidelines. CASQA is a resource agencies use for design criteria and effectiveness of various BMP's at removing target pollutants. A study entitled, Storm Water Management Plan for Dos Colinas by Hunsaker & Associates, dated March 26, 2010 was prepared to: 1) Address impairments with the Agua Hedionda watershed, 2) Identify project-related pollutants of concern, and 3) Select project-specific post-construction BMP's to target the removal of said pollutants. The study serves to demonstrate how water quality requirements are satisfied for the project. These post-construction BMP's are used in series are considered a 'treatment train' to either avoid contact and/or filter pollutants from storm runoff prior to discharge from the project.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-17: (cont'd.)**

The Draft EIR contains analysis of the project's potential effects on hydrology and water quality, including effects on Agua Hedionda Creek, and to ensure no construction or post-construction effects on hydrology and water quality occur from the proposed project, mitigation measures WQ-1, WQ-2, and WQ-3 have been included for proposed project. These mitigation measures require preparation and submittal of final Storm Water Pollution Prevention Plan (SWPPP), Hydromodification Plan, and Stormwater Management Plan, prior to approval of grading and/or building permits. Industry-approved BMPs appropriate for the project site and the development type will be presented to the City for review and approval prior to disturbance of the existing landform.

With regard to cumulative analysis, the project was reviewed for its cumulative contribution to the hydrology and flows of the regional watershed. As noted in Section 7.1.14 of the Draft EIR, the project's drainage control and hydromodification features detailed in Section 5.12, will ensure that the project's cumulative effects will be less than significant.

**Response to Comment F-18:**

The commenter has requested that the financing plan and timing for approval of the completion of College Boulevard Reach "A" and Basin "BJ" be included in this EIR. Please note that while the property owner will be required to be party to the implementing agreements for these improvements under the Calavera Hills Master Plan Phase II and the Zone 15 Local Facilities Management Plan, the processing of the Dos Colinas project entitlements at this time is unrelated to the timing of the agreement, in that the Dos Colinas project, like others in this area, may not move forward with grading and implementation until these improvements (and financing plan) have been made.



# Comment Letter F

(cont'd.)

the BR and DEIR discuss alternatives for Basin BJ. Since project conditions are dependent upon this, please include the proposed revised financing plan and clarify the timing for approval of this and how this will be coordinated with project approvals.

F-18

(cont'd.)

( ) The project fails to comply with the provisions of the city's Guidelines for Wetland and Riparian Buffers, April 9, 2010. Among others these include : p6 "minimum 100' in width surrounding all non-estuarine wetlands or riparian habitats," p 9 at least 100' around occupied habitats of least Bell's vireo and southwestern willow flycatcher, p10 should be expanded to encompass the entire 100 year floodplain surrounding a stream or wetland where the floodplain extends more than 100' from the wetland, Table 1 "prohibit fill or development within existing floodplain (except for essential infrastructure)", requires habitat enhancement and restoration in the riparian and buffer areas (emphasis added), requires an Alternative Buffer Configuration(ABC) if standard design is not complied with, and specifically restricts ABC if the wetland drains to an impaired waterbody. The guidelines go on to describe specific requirements for each of the three zones of the buffer: Protection, Separation and Transition. The Atts include page 13 from these Guidelines which include 5 of the 6 zone specific requirements which also have not been complied with. Both the general and zone specific guidelines have been ignored, the EIR does not include an ABC and furthermore an ABC is prohibited because the project drains to Agua Hedionda Creek which is a 303(d)listed impaired waterbody. ( note- AH Lagoon was recently de-listed but this does not change the status of the upstream reaches of the watershed.)

F-19

The project needs to be revised to comply with all of the Guidelines for Wetland and Riparian Buffers.

( ) The MM's need to add the specific wetland buffer monitoring conditions included in Section 7.2 of the Guidelines for Wetland and Riparian Buffers.

F-20

( ) BR page 13 and other places say " No wetland buffer is proposed along Little Encinas Creek." It goes on to characterize the creek as "a narrow incised drainage system with sporadic low growing fresh water marsh species and no riparian cover." This is a correct characterization of the creek in the area assessed- but upstream the creek has extensive, mostly high quality native vegetation with a dense mixed willow/oak tree canopy. Presumably this lower section of the creek would also support such vegetation if the land was not routinely altered. Providing a reasonable buffer in this area would support conversion of this creek back to more natural conditions- improving flood control and ground water recharge in addition to enhancing the habitat and wildlife values. BR pages 12 and 51 indicate that there is an existing sewer access road along the north side of the creek but it appears this road will be significantly expanded to a 20'ROW. The fact that there is an existing 10' access road within the buffer does not eliminate all potential benefits of a buffer or justify expansion of this road in an area next to the creek. .

F-21

The DEIR has failed to justify elimination of the entire wetland buffer for Little Encinas Creek. This is of particular concern considering the type and density of development that is being proposed as there will be significant indirect impacts from the addition of so many adjacent residential units.

F-22

There is no figure that shows where such a buffer would extend and the relationship of the road or other constraints within this buffer. Please add a figure that shows where all 100' of wetlands vegetation buffers would be located, if provided, and the variations to such buffers that are now

F-23

## RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)

### Response to Comment F-19:

The proposed project complies with Buffer requirements under the City's *Guidelines for Wetland and Riparian Buffers* (2010) through the provision of either minimum 100-foot buffers adjacent to wetlands and riparian habitats, or through Alternative Buffer Configurations (ABCs) where buffers are reduced minimally below the 100 foot requirement, but generally preserve the resource for which buffers are required. As summarized in Section 5.6.4.4, four minor exceptions to the 100 foot buffer provision for the proposed project are as described below:

- The first area where full buffer widths are not achieved is at the affordable housing site where an average buffer of 97 feet is provided. The eastern edge of the buffer at the affordable housing site aligns with 50-feet of existing parking lot on the adjacent parcel. The next 50-feet back on the site would align with 50-feet of the adjacent development building wall and would serve little to no buffer function. To address the narrowed buffer on the affordable housing site, an enhanced wetland buffer (i.e., overall width in some areas in excess of 100 feet) and fencing has been incorporated into the proposed project to improve functionality of the buffer width provided. In this case, it is believed that the City's Alternative Buffer Configurations (ABCs) would fit with both the site conditions and intent of the ABC goals.
- The second case is where a below grade sewer crossing of Little Encinas Creek is proposed within the College Boulevard Reach "A" fill embankment. This sewer crossing would include placement of one manhole and a sewer access road within what would be considered the Protection Zone to Little Encinas Creek. An existing sewer manhole and access road is located on the north side of Little Encinas Creek. The Project would follow an existing 10-foot to 14-foot wide agricultural access road towards the proposed toe of the College Boulevard Reach "A" with a maintenance access road within a 20-foot ROW easement. The permanent path would be decomposed granite, 16 foot wide to accommodate City design requirements. This road would only serve maintenance needs for the sewer. All proposed non-constrained infrastructure development associated with the proposed project has been set back at least 100 feet from Little Encinas Creek. The placement of the sewer and access road is not a restricted use under section 4.0 and 4.1 of the City's *Guidelines for Wetland and Riparian Buffers* as it conforms to the criteria of Section 4.1.4, which details that "Storm water devices, utilities, and other impervious surfaces: Only essential flood control, storm outflow devices (with dissipaters), temporary water

RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)

Response to Comment F-19: (cont'd.)

quality monitoring devices, and stations, erosion control/grade stabilization devices, sewer, water transmission lines, other utility lines, and storm drains are allowed. No other armoring/impervious surfaces shall be allowed (with the exception of access roads to essential facilities)."

- The third case is the extension of a storm drain to Agua Hedionda Creek downstream of the Dos Colinas site through the existing golf course. In this case, the drain and its energy dissipater are also covered as allowable uses under the above referenced section 4.1.4.
- In the final case, the proposed project includes the alteration to the alignment of an existing access road adjacent to Little Encinas Creek that services the existing RV storage and community garden as a result of the roadway being severed by the approved College Boulevard Reach "A". This realignment would make use of the existing creek-parallel roadway segment but would realign the paved southerly roadway extension away from the creek, eliminating the existing "T" intersection and replacing it with a radius turn divergent from the creek as soon as possible. No further encroachment of the roadway towards the creek is proposed. The City's *Guidelines for Wetland and Riparian Buffers* are silent on work within or on existing infrastructure improvements, however, it does indicate that "[r]oadways and other crossings of the buffer shall be avoided and minimized; crossings will be designed to minimize impacts to habitat to the maximum extent feasible...." The Project must take access between the creek and existing development. As a result, the best solution available, which has been included as part of the proposed project design, is to improve the existing paved access without expansion towards the creek and realign the access away from the creek at the earliest point available.

The commenter also indicated that the City's *Guidelines for Wetland and Riparian Buffers* preclude the use of ABCs where the wetlands drain to an impaired waterbody. The language of the Guidelines under 2.5 *Alternative Buffer Configurations* specifically states the following:

"Note that alternative buffer configurations **may not** be approved if the area drains to a Clean Water Act (CWA) 303d-listed impaired water body." (**Bold emphasis added**)

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-19: (cont'd.)**

The application of the term "may not" as opposed to "will not" allows for review and discretion by the City Council of the use of the ABCs on a project-by-project basis. Much of the lands within the City's jurisdiction drain into designated impaired waterbodies and therefore, while the goal is to provide for 100 foot buffers adjacent to wetlands and riparian habitat, the HMP acknowledges that this may not be feasible or necessary for all projects. No revisions to the project or further analysis of the proposed project related to the provision of buffers is determined to be necessary.

As applicable to Comment F-19, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). Under the refined alternative the reductions in the buffer associated with the affordable housing site (bullet #1 above) are no longer applicable. Additionally, a second alternative to the storm drain alignment offsite has been added, and if selected for implementation, would make the discussion of the storm drain alternative (bullet #3 above) no longer applicable as well. The Refined No Affordable Housing Site Alternative would still result in the reduction to the buffers as described above in the remaining three bullets. Therefore, as described above in detail, and for the same reasons that the proposed project is determined to be in conformance with the City's *Guidelines for Wetland and Riparian Buffers*, the refined alternative would be in conformance to the buffer requirements for areas adjacent to wetlands and riparian areas.

**Response to Comment F-20:**

As stated within the HMP Consistency Section of the DEIR (pg. 5.6-53, -55, and -56) all areas preserved via a conservation mechanism will require perpetual maintenance and monitoring; the guidelines of long-term management would be established within a Long-Term Management Plan (LTMP). The LTMP will be prepared upon approval of the Project and is subject to review by the Wildlife Agencies and City of Carlsbad. Long-term management duties would include (but not be limited to) perpetual repairs to ensure site protection (i.e., fencing, signage), trash and debris removal, weed control, and erosion control. The LTMP would include the following: 1) a description of management, maintenance, and monitoring actions, 2) cost estimation and a funding mechanism, and 3) the anticipated long-term land manager's name, qualifications, business address, and contact information.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-20: (cont'd.)**

The Addendum to the Biological Resources Technical Report for the Dos Colinas Project under the Refined No Affordable Housing Site Alternative has provided clarification regarding the LTMP. Specifically, preserved areas would require short and long-term monitoring plans that are required to be prepared in with Carlsbad Municipal Code Section 21.210.050, which requires (among other items) that *"All preserve areas shall be managed, maintained and monitored according to the standards contained in Section F.2 of the HMP, Volume 2 and 3 of the MHCP and the citywide open space management plan."*

In particular, the management and monitoring actions within Section F.2 of the HMP requires that the monitoring plan include discussions pertaining to: 1) habitat restoration and revegetation, 2) recreation and public access, 3) hydrology and flood control, 4) species introduction, 5) enforcement, 6) adaptive management, and 7) monitoring. Mitigation measures within the Final EIR has been updated to reflect this clarification.

The Final EIR has been updated to clarify that the LTMP would be consistent with the Management and Monitoring Actions, Section F-2 of the HMP as well as the Buffer Management and Monitoring, Section 7.0 of the City's *Guidelines for Riparian and Wetland Buffers* for the areas where buffers are incorporated into the preserve system. There are no buffer crossings proposed so monitoring crossings would not apply to the Dos Colinas Project. No buffer conservation is proposed on Little Encinas Creek because the activities are of a limited utilities nature, principally utilizing existing access.

**Response to Comment F-21:**

Please refer to Response to Comment F-19, above. Specifically, the current access and intersection of the paved access road are within 10 feet of Little Encinas Creek. Post-construction, the intersections would be realigned westward and altered to diverge from the creek earlier than it does at present. The proposed project would use an existing access that cannot be relocated further from the creek due to constraints of existing development.

The City agrees with the commenter's assertion that the lower section of Little Encinas Creek could support high quality vegetation similar to upstream if the land was not routinely altered (HMP Consistency Section; pg. 65; M&A 2010). However, lands below the future College Boulevard Reach "A" have been maintained for flood control purposes historically and presently lack the functionality of intact wetlands. The infrastructural work in the area of Little Encinas Creek for the proposed project is limited in nature and would not encroach into the creek.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-21: (cont'd.)**

This work would thus not trigger any need for creek improvements as mitigation for identified impacts to the creek or riparian resources.

It should be noted that the future construction of the Basin "BJ" upstream of the College Boulevard Reach "A" is expected to facilitate the restoration of Little Encinas Creek adjacent to the existing Hardline Preserve of Core Area 3. Furthermore, upon construction of the College Boulevard Reach "A" extension, a low-flow, dry-step will be incorporated into the College Boulevard, designed to avoid hydraulic capacity impacts on the culvert. This improvement would not otherwise create any impacts and would facilitate wildlife movements below College Boulevard Reach "A" to the areas of the downstream creek.

**Response to Comment F-22:**

See Response to Comment F-19 and F-21, above.

**Response to Comment F-23:**

Figure 5.6-4 within the Draft EIR identifies where buffers are located on the project site. Buffers have not been identified for offsite project elements (e.g., sewer access road and storm drain channel) since these are allowable uses within the buffer zones; nor have buffers been identified in the proximity of Little Encinas Creek, where work would make use of the existing access road without expansion towards the creek. See Response to Comment F-19, above.

As applicable to Comment F-23, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). Under the refined alternative, the development footprint is pulled far enough back from Agua Hedionda Creek that a 100-foot buffer would not apply to the proposed project (i.e. all development is removed from the equestrian property, including fill slope, and the CCRC development is located a minimum of 100 feet from the creek). Therefore, only an onsite fuel modification zone is proposed within the project site, not resulting in any disturbance of lands within 100 feet of the Creek. However, similar to the proposed project, the Refined No Affordable Housing Site Alternative does not include buffers for the offsite project elements (e.g., sewer access road and storm drain channel) or in the vicinity of Little Encinas Creek, for the reasons described above in this response, as well as the detailed Response to Comment F-19.

# Comment Letter F

(cont'd.)

being proposed. Revise the analysis of impacts from excluding 100% of this buffer- assessing all of the functions such a buffer can provide. Improved buffers should also be included in a biologically preferred alternative.

F-23  
(cont'd.)

( ) BR page 18 describes a 6' chain link fence to keep people and pets out of the basin, with a second fence between the basin and AH creek. Please add a figure that identifies specifically where this fencing is proposed and clarify how this fencing will not impede wildlife movement.

F-24

( ) What is described as a "modified buffer" in the affordable housing parcel also serves as a detention basin. This area will be revegetated with native species and be fenced to restrict access. This entire area should be included as part of the hardline protected open space, yet it is only proposed to have a "Biological Conservation Easement." (BCE) We think there should be a distinction between including it in the hardline and requiring funding for permanent management. Since not all of this area is required for mitigation setting it aside as hardline open space should not trigger the financial obligation to manage it in perpetuity. But it should be included as part of the permanent hardline as it will contribute to the achievement of the goals in the HMP.

F-25

( ) The unnamed tributary to AH Creek does not seem to end up with any protection at all, even though the confluence with Agua Hedionda appears to be outside of the impacts of the College Blvd widening and within the limits of the Dos Colinas project. This is of particular concern because the observed use area for least Bell's vireo # 2 is immediate adjacent to this( and appears to be curiously constrained to a very small area.) According to BR page 24 this unnamed tributary "supports a multi-layer canopy of southern willow scrub and marsh habitat with a relatively dense herbaceous cover." This appears to be among the highest quality riparian habitat within the project, and includes use area for 2 of the 3 vireos ( which are listed species), yet it is not being protected. We understand there are no direct wetlands impacts- but the quality of this habitat, interface with AH Creek which is identified as a wildlife movement corridor and the presence of endangered species all support further buffers and protection for this unnamed tributary. The EIR failed to properly identify all of the indirect impacts associated with development along this creek.

F-26

( ) BR page 22 states that there is linear habitat for least Bell's vireo of about 1 km along AH Creek and its tributary and about .7 km for the flycatcher. The LBV territory is marked on Figure 6 but we could not find any mapping for the flycatcher territory. Please include flycatcher territory on Figure 3 or add clarification that this is covered within the boundaries of the LBV territory.

F-27

( ) BR page 64 states "In order to facilitate required mitigation for the FEIR for Calavera Hills Phase II and Thoroughfare District # 4 & Detention Basin, the Dos Colinas Project cannot avoid impacts to the floodplain." This statement is absolutely untrue. The referenced project requires that the RV parking lot and garden are relocated- it does not require them to be relocated into the floodplain. Putting them in the floodplain is a discretionary action. Furthermore placing them in the floodplain causes alteration of that area and additional areas to compensate for the loss of floodplain capacity associated with these two uses. Since about half of the project site is outside of the floodplain it is certainly possible to relocate these facilities within the project area, but outside of the floodplain.

F-28

( ) BB pages 64 and 80 talk about an alternative location for detention basin BJ on the Lubliner

F-29

## RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)

### Response to Comment F-24:

The biological open space fencing proposed under both the proposed project and the Refined No Affordable Housing Site Alternative would be located between the CCRC and proposed Parcel 3 (See added Figures 5.6-5a and 5.6-5b, and Figure 6.4-18 of the Final EIR) and will be a five-foot lodge-pole fence with brown vinyl chain link. It should also be noted, that fencing will be placed around several of the detention basins and a noise attenuation wall is proposed along both the eastern property boundary, along College Boulevard, and along the southern boundary of the CCRC site for either project design. This proposed fencing design would allow for continued wildlife movement of small mammals, while keeping larger domestic (predatory) animals (e.g., dogs and cats) out of the open space.

### Response to Comment F-25:

The commenter has noted that the buffer on the Affordable Site should be designated as hardline open space, which would not trigger the financial obligation to manage it in perpetuity since the buffer is not needed for project mitigation yet it is only proposed to have a biological conservation easement. First, it should be noted that the Biological Resources Technical Report and the Draft EIR state that the buffer would be preserved via a restrictive covenant, not a biological conservation easement. A restrictive covenant is appropriate as the hydromodification basin, located within the buffer will require minimal maintenance consisting of as needed debris removal from the inlet and outlet apertures (two separate apertures) with minimal vegetation removal by hand should species take root within each aperture. While the terms and conditions of the restrictive covenant would be established between the project Applicant, City and Wildlife Agencies upon approval of the Project, the restrictive covenant overall would limit the allowable uses to conservation of habitat, compatible enhancement and maintenance activities, and minimal maintenance activities for purposes of maintaining the basin hydrologic function.

The Draft EIR also states that the buffer would be zoned as open space. This was not intended and the Final EIR has been corrected. The project does not propose to include the buffer as City Hardline Conservation due to the hydromodification basin within the buffer and lack of open space designation. However, due to the species-specific requirement to reduce impacts to least Bell's vireo, the buffer would be managed for natural biological values. Mitigation measure B-13 within the Draft EIR has been clarified to address management requirements of the buffer and is measure B-14 within the Final EIR.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-25: (cont'd.)**

As applicable to Comment F-25, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). Under the refined alternative the commenter's concerns are no longer applicable due to the omission of the affordable housing parcel from the project study area.

**Response to Comment F-26:**

The portion of the unnamed tributary located on APN 209-060-71 would be rezoned as Open Space (OS) as part of the proposed project. While the Project proposes to rezone all undeveloped/non-impacted lands within APN 209-060-71 to OS, a conservation mechanism is not proposed at the present time. The site does not serve as mitigation and is planned to remain in its present permitted equestrian use, which would be allowed under the OS zone. The site is available for unrelated wetland expansion of the creek for mitigation purposes. If mitigation use is undertaken in association with a different project, that action will trigger the need for a conservation mechanism and long-term management and funding as a part of the work. Thus, the Dos Colinas Project would not be responsible for long-term management for the Protection and Separation Zones within APN 209-060-71 if this occurs. That obligation would be attached to any future mitigation project.

As stated within Section 5.6.1.2 of the Draft EIR, the onsite portion of the unnamed tributary conveys water within a narrow incised channel (approximately one-foot wide) under a canopy of eucalyptus woodland. Least Bell's vireo were detected upstream (offsite) within southern willow scrub habitat; no vireos were identified within the eucalyptus woodland canopy (See pages 5.6-15 and 5.6-16).

The proposed project development area is set back from the creek to avoid significant secondary effects and is further separated from the creek by the existing equestrian uses. As a result, potential significant indirect effects that may occur would be limited to construction period effects that are addressed elsewhere. However, in reviewing the conditions, it appears that clarification with respect to avoidance of nesting bird disturbance outside of the construction zone. As a result, the mitigation measure B-4 (Phase I) and B-10 (Phase II) of the Final EIR have been revised to address avoidance measures for indirect impacts to nesting migratory birds consistent with the Carlsbad HMP.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-26: (cont'd.)**

As applicable to Comment F-26, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). Under the refined alternative, the Equestrian Parcel would not be rezoned, nor would the vacant single-family residence be removed from the parcel. Similar to the proposed project, this parcel would not be placed into a conservation easement, open space easement, or similar protective management under the Dos Colinas Project.

**Response to Comment F-27:**

Page 22 of the Biological Resources Technical Report (M&A, 2010) as referenced in this comment, under "Methods section for vireo and flycatcher surveys", it is stated that there is "...approximately 1.0 and 0.7 linear kilometers of potential suitable vireo and flycatcher habitat, respectively." The emphasis should be on "potential" as the purpose of this sentence was to inform the reader that there is *potential* habitat for these species onsite. It is further stated on page 38 of the technical study, that no southwestern willow flycatchers were detected on the project site during the 2009 protocol surveys. As a result, no flycatcher locations were mapped. No further analysis or information is determined to be necessary.

**Response to Comment F-28:**

The obligation for relocation of the RV Parking/Garden is an infrastructure requirement associated with the development of the College Boulevard Reach "A" and Basin "BJ" projects, approved under a separate EIR. Because the relocation of the facilities is a required mitigation measure associated with an essential infrastructure project, these facilities themselves are considered to be enveloped within this "essential infrastructure". The proposed RV Parking/Garden parcel was determined to be a viable location as it was the least impactful site and provided convenient access to the Rancho Carlsbad Estates community for which it is associated. The commenter is correct in noting that development in the floodplain is a discretionary action subject to approval by the Planning Commission; accordingly, a Special Use Permit has been requested for development in the floodplain. As required, the pad elevation is being raised out of the floodplain.

As discussed in the Draft and Final EIR, all floodplain impacts from a biological and hydraulic perspective are proposed to be adequately offset. Please see the HMP Findings included as Appendix K2B of the Final EIR, for expanded justification.



**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-29:**

Detention Basin "BJ" is not proposed to be relocated to the Lubliner property as part of the proposed project. The area of Basin "BJ" had initially been identified as a mitigation site for wetland impacts associated with construction of the College Boulevard Reach "A" bridge(EIR 98-02). At this time, the applicant for College Boulevard is currently researching options for wetland mitigation and no definitive location has been determined. Approval from the wildlife agencies as well as the city is required for any alternate location for the wetland mitigation associated with the construction of College Boulevard. This comment does not provide any further comments on the Dos Colinas project, and therefore, no additional response is necessary.

# Comment Letter F

(cont'd.)

property. On page 64 it says the basin will be relocated to "a more desirable mitigation site along Agua Hedionda Creek, within the Lubliner parcel will be utilized." Then on page 80 it says that although the basin BJ will be located on Lubliner, Basin BJ within the project will still be "required for flood control." The Lubliner parcel was not included within EIR 98-02 nor is it included within this project. This relocation of detention Basin BJ requires further CEQA review- and should be properly detailed within this project with an indication as to how it impacts the previously approved EIR 98-02 which provided for this Basin, and to explain how the two Basins both called Basin BJ will function in combination with each other.

( ) Needle grass mitigation is also identified as being relocated to the Lubliner property, but this offsite mitigation is not called out in the MM. Furthermore insufficient information has been provided to make a determination as to how effective this location would be- since there is no discussion about how/where it will be located on the site, or how it will be managed and protected in perpetuity.

( ) We have several issues with the HMP Consistency analysis that is included as Appendix 8 to the BR. These include the following:

- P 2- a Biological Easement" with no indication of what conditions are included in the easement does not assure adequate protection of the resources. Sufficient information needs to be included that demonstrates how the proposed easement will assure protection of the resources. If the land were designated hardline preserve there are many associated conditions about monitoring and reporting. Whatever mechanism is being used to protect the resources needs to specify exactly what easement conditions are included to protect the resources in perpetuity.
- P 2-3 wildlife movement has not been adequately protected. See the specific recommendation in the College and Cannon Carlsbad High School Site Wildlife Movement Study April 2010 by Dudek incorporated by reference and previously provided to city staff. The project will alter wildlife movement patterns and add additional constraints. The BR identified AH Creek as a movement corridor but indicated how it is essentially not functional as it goes through Rancho Carlsbad MHP. The Dudek report recommends: ( page 44 items 3,4 and 5) install a 5' chain link fence along the east side of Cannon Rd between the culvert and the metal bar fencing to the north and south so wildlife are forced to use the culvert instead of risky at-grade crossing over Cannon Rd., ) extend the block wall along Cannon Rd to fill the gap at Wind Trail Way, remove the block wall between the open area south of Cannon Rd and the north fork of AH creek and install a culvert under El Camino west of Cannon Rd. This project will impact wildlife movement. It should contribute its fair share toward mitigating for these impacts.
- P 3-4 fill is proposed within the existing floodplain that is not required for essential infrastructure. The RV parking lot, garden plot and CCRC and affordable housing footprints are not essential public infrastructure yet all of these are proposed within the floodplain.
- P 9 conversion of agricultural land includes the following requirements "must set back all development impacts at least 100' from existing wetlands and requires habitat restoration/mitigation in riparian buffer areas." The project has proposed no

F-29

(cont'd.)

F-30

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F-32

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F-34

## RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)

### Response to Comment F-30:

Impacts to needlegrass grassland as a result of the Dos Colinas Project would be mitigated onsite within APN 209-060-70, proposed Parcel #3. This is stated as Mitigation Measure B-4 within the Draft EIR, and renumbered as B-5 in the Final EIR. While the Biological Resources Technical Report does make reference to needlegrass mitigation occurring within the Lubliner parcel, this reference is related to the mitigation requirements for the College Boulevard Reach "A" construction, not to the Dos Colinas Project.

### Response to Comment F-31:

As discussed in Response to Comments F-20 and F-25, the protection mechanism (i.e., restrictive covenant) over the "modified buffer" in the Affordable Site is to be developed in general conformity with the hardline preserve standards. However, because the buffer does not serve as mitigation and includes a hydromodification basin use, requiring debris, but not vegetation or sediment removal, specific language addressing this maintenance must be incorporated. The Applicant, in conjunction with the City and Wildlife Agencies, will develop this allowable maintenance language. No mechanical removal of debris is contemplated and the removal of trash, debris, and downed vegetation at hydraulic structures, is not anticipated to be contrary to preserve management standards.

As mentioned above in Response to Comment F-25, the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68. Under the refined alternative the commenter's concerns are no longer applicable due to the omission of the affordable housing parcel from the project study area.

### Response to Comment F-32:

The HMP Core and Linkage Areas/Wildlife Corridors section of the Biological Resources Technical Report (pg. 46) (M&A, 2010), states that the capacity for the study area to function as a corridor is generally limited to the Agua Hedionda Creek corridor. Specifically, the corridor is expected to be limited to the woodland communities bordering the Creek and constrained by Rancho Carlsbad Estates, where it becomes relatively narrow with portions of the banks comprised of riprap. The Dos Colinas Project has been designed to fully avoid impacts to the corridor resources or functions. As summarized in Section 5.6.4.3 of the Draft EIR, in an effort to support Agua Hedionda Creek as a corridor, the Project proposes to zone all non-impacted lands (along the Creek) as Open Space (OS) and preserve specific areas such as the riparian canopy on the affordable site and the upland habitat on the CCRC site via a biological conservation mechanism.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-32: (cont'd.)**

As such, the Project will not impact wildlife movement corridors and thus does not require mitigation.

As discussed in Response to Comment F-21, in association with the construction of the College Boulevard Reach "A" extension, the applicant has proposed a low-flow, dry-step to be incorporated into the culvert for College Boulevard. While this would avoid hydraulic capacity impacts on the culvert, it would also facilitate wildlife crossing from the BJ Basin to downstream areas of the creek. This design consideration is not required for environmental mitigation, in that significant impacts to wildlife corridors for Little Encinas Creek have not been identified as a result of the Dos Colinas project. However, the project plans have nonetheless been revised to incorporate this feature.

As applicable to Comment F-32, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). Under the refined alternative the development and grading that was to be located on these two parcels under the proposed project would be eliminated and the project would be further set back from Agua Hedionda Creek and the associated wildlife corridor. However, because the Equestrian Parcel is no longer included as part of the Refined No Affordable Housing Site Alternative, the parcel will not be rezoned to Open Space (OS), but will continue to be zoned Limited Control (L-C). However, the provision of the low-flow, dry-step would also be included in this refined alternative; therefore, the same improvements hydraulically and with respect to wildlife corridors associated with Little Encinas Creek would result from either the proposed project or the Refined No Affordable Housing Site Alternative.

**Response to Comment F-33:**

Please refer to Response to Comment F-28, above, with respect to the RV storage area, the obligation for relocation of these private facilities is associated with the construction of College Boulevard Reach "A", which was approved under a separate EIR. Because the relocation of the facilities is a required mitigation of the essential infrastructure project, the city has determined that the facilities are considered to be enveloped within this "essential infrastructure" as referenced in the Habitat Management Plan. No fill within the floodplain is required for the area proposed for relocation for the garden area.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-33: (cont'd.)**

Relative to the Affordable Site and within the CCRC site, while these components of the project would result in floodplain fill, it would not affect any biological functions of the floodplain. Further, it would require an off-set to the fills within the entire project site to address HMP compliance and maintain hydrologic patterns in the area. As summarized in the Draft EIR on page 5.6-47, the amount of floodplain acreage affected as result of fills associated with the proposed project is entirely off-set through onsite and offsite creation of floodplain, resulting in a no-net-loss of floodplain.

As applicable to Comment F-33, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). Under the refined alternative the development and grading that was to be located on these two parcels under the proposed project would be eliminated and the project would result in a decrease in floodplain fills along Agua Hedionda Creek. Similar to the proposed project, the Refined No Affordable Housing Site Alternative would result in floodplain fills that would be off-set through onsite and offsite creation, with a resulting no-net-loss of floodplain. Detailed analysis of the refined alternative floodplain effects and project improvements have been added to Section 6.4.1.6 of the Final EIR.

**Response to Comment F-34:**

Please refer to Response to Comment F-19, F-21, and F-23, above.

# Comment Letter F

(cont'd.)

buffer for Little Encinas Creek or the unnamed tributary and a modified buffer of the portions of AH Creek in the affordable housing site. None of this is consistent with the 100' setback requirement nor has any equivalent mitigation been proposed.

- P 13 Project does not preserve 67% of the on-site habitat. The explanation of this is not clear, particularly with regards to needlegrass which in other places in the EIR is said to be mitigated offsite on the Lubliner parcel.
- P 14 the fire management zones are partially included within open space areas and not within the project development footprint. The 60' fuel modification area should be fully outside of the restricted open space areas to be consistent with the HMP- and with past practice on approving projects. Page F-17 of the HMP says "Where new development is planned, brush management will be incorporated within the development boundaries and will not encroach into the preserve." Furthermore the Guidelines for Wetland and Riparian Buffers, which expands on the wetland buffer protection referenced in the HMP, specifically restricts fuel modification not just from the preserve, but from the entire Protection and Separation Zone of all riparian buffers.

( ) The wildlife agency comment letter on the project scope, Att item 4.e asked for a discussion of possible conflicts resulting from wildlife-human interactions at the interface between the project sites and natural habitats. This issue has not been addressed in the DEIR and is of particular concern because these creek corridors are local wildlife movement corridors which are in immediate proximity to residences. This issue needs to be discussed- and specific project conditions/MM need to be added to address such conflicts. This should include things like CC & R restrictions on entering the buffer area of the creeks, restrictions on outdoor domestic cats, and feeding of feral cats, and the protection of wildlife movement corridors during both construction and maintenance.

( ) MM B-2 and B-5 describe the role of the onsite biologist. In B-2 it mentions that they will look at fencing related to wildlife movement but neither of the MMs as written make it clear that part of the role of the on-site biologist is to make sure that the existing wildlife movement corridor through this area is protected throughout the entire time period of construction. This does not just mean the placement of the original fencing- but should also consider things like heavy equipment storage areas, any night-time/security lighting, nesting seasons, etc. Please modify the MM description of the role of the project biologist to make it clear that it includes monitoring and taking corrective action for any impacts to wildlife movement throughout the period of construction.

( ) The project proposes huge cuts in what will be designated open space areas. Such soil removal also eliminates any remaining native plant seed bank and all of the microrhizomes associated with the soil. The EIR failed to identify any impact from the removal of this soil. This is of particular concern as the soil removal and disturbance directly and indirectly effects the natural habitats and wildlife but is not needed in the areas that will remain open space. The only reason for this appears to be to create fill needed to move the areas proposed for development out of the flood plain. Grading in natural areas should not be done to support adjacent development- it should only be done if necessary to support the hydrologic regime of the creek. These grading associated impacts are unnecessary and should be eliminated.

F-34  
(cont'd.)

F-35

F-36

F-37

F-38

F-39

## RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)

### Response to Comment F-35:

The 67% requirement does not apply to preservation of disturbed valley needlegrass grassland. Per D-73 of the City's HMP, ("Standards Areas"), "...67% of coastal sage scrub shall be conserved overall within the Standards Areas." Please be advised that this statement is tracked by the city on an overall, city-wide basis within the Standards Areas. As stated in the HMP, some zones may conserve more or less than these percentages due to parcel size, location, resources, or long-term conservation goals. Further, while the proposed project entails the removal of 35% of existing occupied coastal sage scrub location onsite (i.e., 65% preservation, 0.6 acre of 1.7 acres of coastal sage scrub proposed to be removed), all coastal sage scrub removed will be mitigated onsite through restoration at a ratio of 1:1 on the 1.21 acre upland open space lot. This method of restoration is preferred to in lieu payments of mitigation fees per the HMP.

In addition, although the 67% requirement does not apply to the disturbed valley needlegrass grassland, as required by the HMP, the project proposes to adequately mitigate the removal of 0.04 acres on-site at a 3:1 ratio (i.e. 0.12 acres of mitigation required) within the same upland open space lot which is required to be encumbered with a biological conservation easement (i.e. preserve management plan, endowment, etc. will be required).

The references to needlegrass mitigation occurring within the Lubliner parcel within the Biological Resources Technical Report are related to the mitigation requirements for the College Boulevard Reach "A" construction, not to the Dos Colinas Project.

### Response to Comment F-36:

The commenter raises concerns with the location of the 60-foot fuel modification zone relative to the proposed open space, providing reference to the *HMP Consistency Findings*, contained in the Biological Resources Technical Report included as Appendix E on the attached CD to the Draft EIR. Figure 6 of the technical study does illustrate that the fuel modification zone is located outside of any proposed open space area within the CCRC; and within the Affordable Housing site, where the fuel modification zone would overlap with the Separation Zone (noted in purple, with no shading), this area is specifically noted as "No Separation Zone Proposed" (noted in purple with shading).

Additionally, Figure 5.6-3 of the Draft EIR illustrates the location of the 60-foot fuel modification zones associated with the proposed project, while Figure 5.6-4 illustrates the location of the open space areas. Review of these two graphics, indicates that the 60-foot fuel modification zone is outside of the proposed open space.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-36: (cont'd.)**

To clarify this information, Figure 5.6-4 of the Final EIR has been revised to contain both the 60-foot fuel modification zone and the proposed project open space.

As applicable to Comment F-36, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). Similar to the proposed project, under the refined alternative the fuel modification would be within the project site and not be located within any proposed open space area Figure 6.4-17 has been included in Section 6.4 of the Final EIR to illustrate the development footprint and associated 60-foot fuel modification zone for the Refined No Affordable Housing Site Alternative.

**Response to Comment F-37:**

The HMP Consistency analysis, contained in Appendix 8 to Biological Resources Technical Report, and summarized in Section 5.6.4.4 of the Draft EIR, evaluates adjacency standards including fire management, erosion control, landscape restrictions, fencing, signs, lighting, and predator and exotic species control. Section 5.6.5 of the Draft EIR includes mitigation measures that were determined to be necessary to reduce project impacts to below a level of significance. Implementation of mitigation measures B-5 through B-15 would assist in avoiding and minimizing the likelihood of unanticipated impacts occurring to habitats along Agua Hedionda Creek. As stated within Response to Comment F-25, development of a preserve management plan (i.e., plan by which long-term management would be based) is necessary for all lands preserved by a conservation mechanism, such as a biological conservation easement. Terms and conditions of the conservation mechanism would be established between the City and Wildlife Agencies upon approval of the proposed project.

As applicable to Comment F-37, the applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). An Addendum to the Biological Resources Technical Report and associated HMP Findings have been prepared for the Refined No Affordable Housing Site Alternative (See Appendices K2A and K2B, respectively), and those documents have been summarized in greater detail in Section 6.4 of the Final EIR.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-37: (cont'd.)**

Additionally, where impacts have been identified for the refined alternative, mitigation measures have been proposed to reduce all potential impacts to biological resources to below a level of significance.

**Response to Comment F-38:**

The proposed project will not alter physical movement of wildlife within Agua Hedionda Creek as no impacts to the Creek would be incurred. The reference that fencing shall not interfere with wildlife movement or flow along the riparian corridor is standard language in the event fencing is required within wetland areas. However, to clarify the duties and responsibilities of the project biologist, MM B-2 and MM B-6 have been updated within the Final EIR to state that a monitoring biologist shall be onsite during a) initial clearing and grubbing of habitat and b) project construction within 300 feet of preserved habitat.

**Response to Comment F-39:**

Under the proposed project, cuts of soil will occur as a result of a required hydromodification basin within the Affordable Site. As stated within the HMP Consistency analysis in Section 5.6.4.4 of the Draft EIR, the impacted lands on the Affordable Site consist entirely of urban/developed lands. Abandoned equestrian stalls are located on the land. Sporadic native weedy species can be found onsite but the majority of the area is comprised of compacted soils, with piles of debris, and little to no vegetation.

Additional soils would be removed from the CCRC site with the development of the proposed project. The impacted lands on this site primarily consist of extensive agriculture and secondarily eucalyptus woodland. The extensive agriculture is located adjacent to the Rancho Carlsbad Estates housing community and are disked/mowed for fallow agricultural purposes on a yearly basis.

Overall, the lands are comprised of non-native annual species including *Avena*, *Hordeum*, *Bromus*, and *Erodium* species that generally choke out the lands preventing growth of most native species. As a result, the areas to be cut are not expected to support a significant native plant seed bank due to the current conditions. A small excavation in disturbed lands on the existing equestrian areas that would be rezoned Open Space (OS), is proposed to replace floodplain area losses elsewhere in the project. As a result, the cuts within the open space areas are not designed as borrow sites for fill to support the proposed building pad development, but rather serve hydrologic functions as described in Section 5.6 and 5.12 of the Draft EIR.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-39: (cont'd.)**

As applicable to Comment F-39, the applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). Under this refined, environmentally-superior alternative, the above described soil removal on both the Affordable Housing Site and Equestrian Parcel would be avoided. Onsite soil removal will still occur on the Professional Care Facility project site, in areas of agriculture disturbance, adjacent to Rancho Carlsbad Estates. These areas are not expected to support a significant native plant seed bank due to the current conditions.



# Comment Letter F

(cont'd.)

This especially seems to be the case with the affordable housing site- both in the areas along Agua Hedionda Creek on that parcel that are being impacted, plus the soil removed from the open space on the CCRC part of the site that is being exported to raise this area out of the flood plain.

( ) MM.B-13 describes fuel modification zones that are included as part of the buffer- and the proposed buffer is less than the 100' minimum required. Please provide a figure that corresponds with the description of the proposed fire modification zones so it is clear exactly where each of the vegetation zones applies. Furthermore the buffer is being "modified" to 97 feet effects both the biological resources and fire safety. The discussion in the EIR failed to document how the proposed modified buffer will fully address both the need to buffer the natural resources and the need for a 100' fire safety zone.

( ) The most recent "State of the State Wetlands" report identifies key stressors that contribute to poor wetland health. Many of these are already impacting the creeks and associated wetland habitat and buffers in the project area and these stressors could become even more significant with the proposed project. Please add further mitigation measures to assure that all of the stressors identified in this report on Table 2-3 in the attachments are fully addressed.

## Grading/Visual Impacts

( ) Map 8 in section 5.11-5 shows 8 locations for photo simulation. Per the map for views 4-8 these appear to be perhaps 20 feet or so interior from College Blvd. The actual photo simulations for views 4-8 appear to be closer to 100' west of College and perhaps 20' or so in the air. These do not represent public view impact locations. The CEQA analysis of visual impacts addresses public views- not the views of a distant development from the backyard of a private home in a neighboring development. The visual simulation needs to properly identify view impacts from the public view areas- particularly from walking, driving along College Blvd which is designated a Community Scenic Corridor- plus any potential impacts from other key public locations such as the new High School, Calavera trails, etc. The photo simulation has not addressed the CEQA required analysis of public view impacts.

( ) Page 5.11-41 states for the affordable housing area that "no scenic views through or of the project have been included in the Scenic Corridor Guidelines." But then it goes on to describe the specific Community Scenic Corridor requirements along College Blvd and the Land Use section also specifically identifies the Community Scenic Corridor requirements as applying to the affordable housing site. Please address this inconsistency as this area certainly appears to fall within the restricted Community Scenic Corridor requirements.

( ) Only one visual simulation was shown for the affordable housing site, in spite of the fact that this portion of the project is highly controversial and inconsistent with existing Zoning and the Sunny Creek Specific Plan. Furthermore the one simulation shown is of a building that sticks out like a sore thumb. The photo is not at all consistent with the text that describes it. The landscaping has not significantly affected the view of the wall, utilities stand out, the three trees fail to mask the huge height and volume of the building- particularly since it is so close to the street. Furthermore if the view had shown the other three corners of this intersection it would be very clear how incongruous this building is with the rest of the area.

The visual impact analysis for the entire project needs to be re-done with photo locations from

F-39  
(cont'd.)

F-40

F-41

F-42

F-43

F-44

F-45

## RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)

### Response to Comment F-40:

Upon review of MM B-13 of the Draft EIR, it was noted that this measure was incorrect and is no longer necessary for the proposed project, and has been removed from the Final EIR. As explained above in Response to Comment F-36, the 60-foot fuel modification zone is located within the parking lot and not within any proposed open space associated with the implementation of the proposed project. To clarify this information, Figure 5.6-4 of the Final EIR has been revised to contain both the 60-foot fuel modification zone and the proposed project open space.

As stated above in Response to Comment F-36, the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). Similar to the proposed project, under the refined alternative the fuel modification would be within the project site and not be located within any proposed open space area Figure 6.4-17 has been included in Section 6.4 of the Final EIR to illustrate the development footprint and associated 60-foot fuel modification zone for the Refined No Affordable Housing Site Alternative.

### Response to Comment F-41:

The evaluation of these "stressors" are a component of the California Rapid Assessment Method (CRAM), utilized by the U.S. EPA. A CRAM analysis has not been performed for the site as the proposed project has been designed to fully avoid impacts to wetland and federally regulated waterways. The Draft EIR does evaluate effects from the proposed project, as well as cumulative effects from non-related projects within the immediate area, and no significant effects were identified; as such, no mitigation measures are required related to wetland impacts for the proposed project.

As applicable to Comment F-41, the applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). Similar to the proposed project, the refined alternative has been designed to fully avoid impacts to wetlands and federally regulated waterways. No further analysis is determined to be necessary.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-42:**

In this comment, it is stated that the commenter believes that the photo simulations contained in Figures 5.11-9 through 5.11-13, were taken from "100 feet west of College Boulevard and from 20 feet or so in the air". It is believed that the commenter actually intended to state that the simulations were from "100 feet *east*", and this is assumed in the following response to this comment.

The commenter is generally correct with regard to the simulation contained in Figures 5.11-9 and 5.11-10, which were taken from a distance, within the proposed Holly Springs residential development, to depict future views westward toward the project site from which there will be public viewpoints associated with this development (i.e., roadways and pedestrian access). However, with respect to Figure 5.11-9 and 5.11-11 through 5.11-13, we disagree with the commenter's assertion, and feel that the photographs are both taken at the points referenced on the Photo Location Key Map (Figure 5.11-5) and do generally represent the "public views" of the site. The extension of College Boulevard Reach "A", located adjacent to the proposed project is not currently constructed and so both the roadway (including improvements and landscaping) and the proposed project required simulation for as-built conditions.

An additional simulation, Figure 5.11-14, was included in the Final EIR to depict the view of the project site from the intersection of College Boulevard and Cannon Road, at the site of the future high school currently under construction. This vantage point shows the future extension of College Boulevard Reach "A" along the CCRC project eastern boundary. As simulated in this figure, the northern portion of the CCRC will be screened by proposed landscaping and walls. Furthermore, the building pads are proposed to be located below the finished grade of College Boulevard, limiting the public and private views from this vantage point. Therefore, views from this vantage point would not be adversely impacted.

It is believed that the views depicted in the figures, while looking westward toward the project from beyond the College Boulevard Reach "A" right-of-way, and north from the intersection of College Boulevard and Cannon Road, would be representative of the proposed project views from College Boulevard upon implementation of Reach "A". Further, because an 8-foot-tall sound barrier (two foot berm, 6 foot masonry wall) is proposed to be constructed along the entire project frontage (with exception to entrances into site), if the photograph were taken at eye-level (walking or driving) within the street, very little would be visible due landscaping and the sound wall. As described in Section 5.1 and 5.11 of the Draft EIR, the two-story assisted living building and two to three-story independent living unit buildings are located a significant distance from College Boulevard (i.e. 130-240 feet).

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-42: (cont'd.)**

In addition, the pad elevations for independent living units are located below the finished surface elevation to College Boulevard. All of these factors reduce any potential for aesthetic impacts. As analyzed in the EIR, no significant impacts are anticipated.

**Response to Comment F-43:**

The referenced sentence in this comment is in error and should read as follows:

"The project does not have the potential to block any significant public views from the surrounding land uses as no scenic ~~views~~vistas through or of the project site have been identified in the Scenic Corridor Guidelines."

To further clarify the distinction between the Scenic Corridor Guidelines identified Vistas and a Scenic Corridor, the following sentence has been added immediately following the above referenced sentence:

"However, the western boundary of the Affordable Housing Site, and eastern boundary of the CCRC, would be fronted by the extension of College Boulevard (Reach "A"), which is identified as a Community Scenic Corridor."

As applicable to Comment F-43, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). With the omission of the Affordable Housing Site from the refined alternative and the commenter's concerns are no longer applicable.

**Response to Comment F-44:**

This comment addresses concerns related to the visual simulation and associated analysis of the Affordable Housing Site development for the proposed project. The commenter notes that the photo is not consistent with the narrative and description of the development style. The City concurs with this comment and that the color palette and design, as well as the landscaping should be more consistent with the CCRC development simulations. While typically a project applicant would be asked to revise the architectural drawings, because this portion of the project is not being pursued by the Applicant under the Refined No Affordable Housing Site Alternative, which is the recommended project design supported by both City staff and applicant for consideration by the City Council for adoption and implementation, further design work

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-44: (cont'd.)**

was not required for this change. The conceptual design for the Affordable Housing Site illustrated in Figure 3-15 of the Draft EIR demonstrates that the affordable housing site would be more consistent with the CCRC than illustrated in the photo simulation. Furthermore, this design is derived from submitted site plans on file with the City, which would be the guiding design plans for implementation should the City Council choose to move forward with adoption of the proposed project.

**Response to Comment F-45:**

Please Response to Comments F-42 through F-44, above.

# Comment Letter F

(cont'd.)

public view areas that make sense, for both the CCRC and affordable housing sites. Furthermore there are significant visual impacts and much more mitigation is required to address this. In the case of the affordable housing site this does not even seem feasible given the height and mass of the building and location so close to the street.

F-45  
(cont'd.)

## Geotechnical

( ) It almost appears that the affordable housing site was added to this project as a convenience to make the grading on the primary site work out- by providing a convenient "on-site" place to use the excess material being excavated.

F-46

( ) App G-1 Updated Geotechnical Investigation June 2, 2006 Section 4.1.1 site preparation indicates that excavation should extend 15' beyond the building or to the property line, whichever is less and that on-site geotechnical engineer must be present to determine if more excavation is required. If there were additional excavation required this could result in additional impacts that have not been identified or mitigated. Please provide some limitations on this and assurances that if such additional excavation is required that it has been properly accounted for in the CEQA review and mitigation.

F-47

( ) App G-1 Section 4.1.6 says that drainage patterns need to be maintained for the life of the project and that site irrigation needs to be "minimized." Please clarify exactly how these conditions will be incorporated into the project- and will be monitored for the life of the project. Furthermore "minimized" is not enforceable. This needs to be written in a way that it can be measured and enforced over time. We note that the landscaping plan also includes language about "minimum" irrigation but this again is insufficient to verify compliance. Since the intent of this restriction is to protect the safety of the building it needs to be clear and must be specifically addressed in the MM's.

F-48

( ) App G Executive summary states "the planned structure would most likely require maintenance after a seismic event." Please clarify what level of seismic event is expected to result in damage to the structure such that it will require "maintenance" - and what type of damage is anticipated. The concern is both frequency and severity of events and understanding what the risk is to users of the building or even passerby's on the adjacent street. The EIR has failed to include sufficient information to determine if any further mitigation is needed for what sounds like a significant hazard.

F-49

## Alternatives Analysis

( ) Alternatives analysis is a key element in the CEQA process. The city has previously been informed of the key issues in this analysis which include (Delano, 2001): "The core of an EIR is the mitigation and alternatives sections." Citizens of Goleta Valley v. Board of Supervisors, 52 Cal.3d 553, 564 (1990). An EIR "must produce information sufficient to permit a reasonable choice of alternatives so far as environmental aspects and concerned." San Bernardino Valley Audubon Society, Inc v. County of San Bernardino, 122 Cal. App. 3d 738, 750-51 (1984). "Environmentally superior alternatives must be examined whether or not they would impede to some degree the attainment of objectives." Kings County, 221 Cal. App. 3d at 737. the core of the EIR process. The DEIR has failed to evaluate a reasonable range of alternatives. All of the alternatives considered still have significant impacts. Furthermore the alternatives analysis did not specifically identify an environmentally superior alternative as is required. Two of the

F-50

## RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)

### Response to Comment F-46:

The affordable housing component is included in the proposed project in order to comply with the City's Inclusionary Housing Ordinance onsite. The comment is acknowledged in that the inclusion of the affordable housing site would allow balanced grading on-site based on the currently proposed grading plan. However, it is also acknowledged that because of the large scale of grading (i.e., over a significant area) proposed in association with development of the CCRC site, the grading could very easily be balanced on-site (i.e. on CCRC site) without the need to export material to the affordable site and without significantly changing the overall pad elevations. In addition, as applicable to this comment, it should be noted that the Refined No Affordable Housing Site Alternative would omit the affordable housing site on APN 209-060-68, locating the affordable units within the CCRC or at an alternative site to be determined. With the omission of the Affordable Housing Site from the refined alternative, this comment is no longer applicable.

### Response to Comment F-47:

The Draft EIR addresses the impacts associated with limits of grading for the proposed project as shown on the grading plans (Figures 3-18 and 3-19), and included in other areas such as biological resources (e.g., See Draft EIR Figure 5.6-3). These limits of grading include up to the property line for the portions of the project site proposed for development. Therefore, no additional impact associated with the site preparation recommendations of the Geotechnical Investigation for the affordable housing site (EIR Appendix G2) are anticipated. The City concurs that any disturbance outside of those areas assumed to be impacted by the proposed project would require additional environmental review and mitigation if appropriate.

### Response to Comment F-48:

The text provided in Section 4.1.6 of the Geotechnical Investigation for the affordable housing site (Draft EIR Appendix G2) specifically states:

"Drainage patterns established at the time of fine grading should be maintained throughout the life of improvements. Site irrigation should be limited to the minimum necessary to sustain landscape growth. Should excessive irrigation, impaired drainage, or unusually high rainfall occur, zones of perched groundwater can develop."

The drainage patterns of the site will be established and maintained as part of the drainage plan for the project, which is addressed in the Draft EIR Section 5.12-Hydrology/Water Quality. Once project site grading is completed and the proposed project is constructed, no additional grading or topographical alteration of the site,

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-48: (cont'd.)**

affecting drainages would be allowed, nor be expected to occur as the necessary improvements would have been constructed and in place.

Additionally, as indicated in the text quoted above, "site irrigation should be limited to the minimum necessary to sustain landscape growth." The proposed project landscaping will be in compliance with the City's Landscape Manual. Section II B Water Conservation Plan requires, among others, a written description of water conservation features. Furthermore, Section IV.C Water Conservation Policies and Requirements identifies the water conservation features required as part of the Landscape Plan review and approval in order to avoid excessive water use associated with landscape maintenance.

**Response to Comment F-49:**

The specific text of the Geotechnical Investigation for the affordable housing site (Draft EIR Appendix G2) as referenced in this comment states:

"Additionally, it should be recognized that the planned structures would most likely require maintenance after a seismic event."

As discussed on Draft EIR pages 5.8-8 and 5.8-9, because the CCRC site is located in a seismically active region, the site is likely to be subject to at least one moderate to major earthquake during the design life of the structures. The nearest known active fault is the Rose Canyon Fault Zone, located approximately 8 miles west of the site. Potential seismic related impacts related to the proposed project include ground shaking, soil cracking, and liquefaction. Surface rupture is not considered a potential impact, as there is no evidence of any on-site faulting. The potential impact related to ground shaking would be addressed through compliance with the UBC (UBC, 1997) as the level of risk for the CCRC site is the level of risk assumed by the UBC minimum design requirements.

Because the affordable housing site is located in a seismically active region, it will also likely be subject to at least one moderate major earthquake during the design life of its structures. Potential seismic related impacts on the site include ground shaking and liquefaction. The potential impact related to ground shaking would be addressed through compliance with the UBC (UBC, 1997) as the level of risk for the project site is the level of risk assumed by the UBC minimum design requirements.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-50:**

The alternatives analysis provided in Chapter 6-Alternatives of the Draft EIR meet the provisions of CEQA and the CEQA Guidelines. Pursuant to CEQA Guidelines Section 15126.6, a range of alternatives has been analyzed in the EIR, which would, "... avoid or substantially lessen any of the significant effects of the project, ... " (§ 15126.6).

As summarized in the Draft EIR Table 6-1, the Existing General Plan Alternative would result in reduced impacts associated with Hydrology/Water Quality and Public Services and Utilities. The No Affordable Housing Site Alternative would result in reduced impacts associated with air quality, greenhouse gas emissions, noise, biological resources, hydrology/water quality, and public services and utilities. Additionally, as shown on EIR Table 6-1, both the No Project/No Development Alternative and the No Affordable Housing Site Alternative are identified as environmentally superior to the proposed project.

It should be noted, that in Response to Comments received on the Draft EIR and following a February 2, 2011 meeting with the Wildlife Agencies and City of Carlsbad, the Applicant has taken significant steps to address concerns with respect to the City HMP consistency analysis. Specifically, the proposed land use changes for the project are as follows:

- The affordable housing site (APN 209-060-68) has been withdrawn from the project and will be left as-is without any physical changes to existing land uses or zoning.
- Equestrian Parcel (APN 209-060-71) has been withdrawn from the project and left as-is without any physical changes or changes to existing land uses or zoning due to HMP compliance conflicts.
- The number of units associated with CCRC has been reduced by four cottage units to a total of 305 units.
- A second storm drain alternative (Storm Drain Alternative 2) would place the storm drain within the existing paved road in the Rancho Carlsbad community and connect to Agua Hedionda Creek via an existing box culvert in Rancho Carlsbad Drive. This alternative would eliminate impacts to CDFG regulated streambank, eliminating all wetland or regulated watercourse impacts from the project.

The analysis for the Refined No Affordable Housing Site Alternative, which is the recommended project design supported by both City staff and applicant for consideration by the City Council for adoption and implementation, has been expanded in the Final EIR in Section 6.4 to provide further comparative analysis with the proposed project.

## Comment Letter F

(cont'd.)

alternatives were identified as environmentally preferred. It is clear from the discussion that the no affordable housing site is the environmentally preferred alternative and it needs to be so designated.

F-50  
(cont'd.)

( ) Add a project alternative that fully meets all of the HMP consistency conditions- including the provisions of 100' buffers along all wetlands ( including Agua Hedionda, Little Encinas and the unnamed tributary of Agua Hedionda).

F-51

### Cumulative Impacts

( ) 5-15 The DEIR assumes that there are no cumulative impacts to biological resources. We cannot keep ignoring the cumulative impacts on our watershed. We urge you to fully evaluate the cumulative impacts to Agua Hedionda Creek and include this evaluation in the assessment of cumulative impacts on this subwatershed. The following identifies several issues with the subwatershed and specific concerns with this project.

-- increasing impervious cover in an area already at risk

F-52

Recent estimates are that the Agua Hedionda watershed is already at 32% impervious cover. (Tetrattech presentation to AHWMP Stakeholders). Studies show a direct correlation between the health of the watershed and the percentage of impervious cover. Watersheds with 10% or more impervious cover are already considered impaired. This project has to be evaluated as to its contribution to the cumulative impacts. This is of particular concern because this project has an excessively high percentage of impervious cover- much higher than the typical residential unit which it is replacing. This increase in impervious cover needs to be assessed in terms of its contribution to continued degradation of this area.

- channelizing streams.

F-53

Channelizing streams changes them in ways we do not yet fully understand. Studies show increased levels of bacteria on the outfall side of culverts. We probably have hundreds of such culverts in this area -- and how many more in this project area? The analysis of impacts needs to fully consider the effect of channelizing and filling numerous small drainages.

- Unauthorized changes have been made to the creek channel.

F-54

The real world does not match the plans on paper so the hydrologic studies are not based on real world conditions. The fact that emergency repairs were needed after the last drainage improvements were constructed demonstrates that the engineering analyses are flawed. Undocumented changes are shown in our inspection of the upstream area. How do these undocumented changes affect the cumulative impacts on this sub-watershed? How are they being addressed in the calculations for this project? What actions will be taken to assure this does not continue?

- Poor integration of wetlands mitigation.

F-55

Because several related projects are being addressed independently, the wetlands impacts and mitigation are also being addressed independently. We are concerned that this lack of coordination will not result in the best overall wetland mitigation plan for this portion of the

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## RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)

### Response to Comment F-51:

While the City believes that the HMP Consistency Findings can be made for the proposed project, as mentioned above, in Response to Comment F-50, the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). An Addendum to the Biological Resources Technical Report and associated HMP Consistency Findings have been prepared to document the refinement of the No Affordable Housing Site Alternative (Section 6.4 of the Draft EIR) and was used to provide a more detailed comparative analysis of the refined No Affordable Housing Site Alternative with the proposed project. A copy of the Addendum and HMP Consistency Findings are included as Appendix K1 and K2, respectively, to the Final EIR.

### Response to Comment F-52:

The Draft EIR does not assume that there are no cumulative impacts to biological resources as is stated in this comment. The Draft EIR specifically states, "The increase in urbanization of currently vacant land will impact existing natural habitats and biological resources." (See Draft EIR page 7-10). However, as further discussed in this section, the implementation of the HMP, including construction and grading restrictions to protect sensitive species, mitigation for loss of habitat, and revegetation following construction, would reduce the cumulative impacts to below a level of significance. Please refer to EIR Section 7.1.8 Biological Resources for a discussion of cumulative biological resources impacts.

Regarding impacts within the watershed, the hydrology analysis is based on the assumptions of cumulative development patterns that will occur in the project area, and the watershed in which the project is located. Draft EIR Section 5.12.1.4 specifically addresses water quality in the context of which the project is located. Water bodies potentially affected by the proposed project include Agua Hedionda Creek and Agua Hedionda Lagoon. The Draft EIR, pages 5.12-13 through 5.12-14, address the Clean Water Act Section 303(d) List of Impaired Waterbodies in which the project site is located.

This project is designed to satisfy hydromodification requirements, which requires a water-quality based approach that uses flow-reduction facilities so that the peak flows and volumes for smaller, but more frequent storm events are matched in the pre and post-development condition of the project. Low Impact Design (LID) and water quality treatment features are included throughout the project.



**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-52: (cont'd.)**

Examples include the use of linear bioretention swales, impervious ribbon gutters, and routing of urban surface runoff through pervious (landscape) areas at several locations throughout the project before being intercepted by storm drains and discharged to the proposed basins. These LID measures serve as 'disconnects' satisfying SUSMP requirements to help reduce the post-development runoff rates and volumes and to filter runoff through landscape zones, allowing root absorption, evapo-transpiration, and percolation. Together with the installation of the 3 flow-control (hydromodification) basins, these methods address both water quality and hydromodification requirements. No further analysis is determined to be necessary.

As applicable to Comment F-52, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). Under the refined alternative, the total impervious area after development would be 44%, including buildings, roads, parking lots, driveways, and walkways, but does not include College Boulevard Reach "A" as that portion of the project is related to the previously analysis contained within the adopted Calavera Hills Master Plan Phase II, Bridge and Thoroughfare District No. 4, & Detention Basin (EIR No. 98-02. SCH No. 99111082). The LID measures discussed above for the proposed project would be similarly implemented for the refined alternative. Figure 6.4-27 has been added to the Final EIR to depict the areas of the project site that would be impervious with the construction of the Refined No Affordable Housing Site Alternative, which is the recommended project design supported by both City staff and applicant for consideration by the City Council for adoption and implementation. No further analysis is determined to be necessary.

**Response to Comment F-53:**

As discussed in Response to Comment F-26, there is one unnamed tributary located on APN 209-060-71, which would be rezoned as Open Space (OS) as part of the proposed project. The proposed project development area is set back from Agua Hedionda Creek and Little Encinas Creek to avoid significant secondary affects. Because the project does not propose to fill or channelize any identified named or unnamed channels, the cumulative project effect would be considered to be less than significant. The commenter provided no further specific or technical information to support the concerns noted in this comment. No additional analysis or information is determined to be necessary.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-54:**

The proposed project would not result in a net reduction in floodplain area nor would the project exacerbate flood conditions. Flooding, hydrology, and floodplain impacts are addressed in detail in the Draft EIR Section 5.12-Hydrology/Water Quality, and cumulative analysis is summarized in Section 7.1.14. The commenter provided no further specific or technical information to support the concerns noted in this comment. No additional analysis or information is determined to be necessary.

**Response to Comment F-55:**

As recognized by the commenter, the Dos Colinas Project has been designed to fully avoid direct jurisdictional impacts to wetlands and federally regulated waters. Potential indirect impacts to wetlands from erosion and sedimentation were addressed, and mitigation measures were included, within the July 2010 Biological Resources Report (Appendix E), as well as the Draft EIR. With respect to the commenter's note that a lack of coordination for projects with wetland impacts has not resulted in the best overall wetland mitigation plan for the Agua Hedionda Creek area, please note that project applicants for different projects in the area are not required to coordinate wetland mitigation efforts. In addition, please note that in the context of regional habitat impacts and overall preservation, the MHCP has established guidelines which are designed to create, manage, and monitor an ecosystem preserve in the subregional planning area through implementation of citywide "subarea" plans to be adopted by the individual jurisdictions. Furthermore, the City's oversight and implementation of the HMP provides for a comprehensive approach to the management and preservation of resources within the City of Carlsbad. As such, long-term monitoring is required for any project with managed open space.

As applicable to Comment F-55, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4 of Final EIR) that would omit the affordable housing site on APN 209-060-68 and further reduce indirect impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). This Alternative is being recommended for implementation by the city and is supported by the applicant. Pursuant to the analysis in the Refined No Affordable Housing Site Alternative, the potential indirect impacts associated with the buffers or other hydrologic system changes would be reduced under CEQA. The Final EIR has been expanded to further clarify the comparison of the refined alternative with the proposed project, and any impacts and associated mitigation measures. Please refer to Section 6.4 of the Final EIR for the expanded discussion and analysis.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-55: (cont'd.)**

The Biological Resources Report included as Appendix E to the Draft EIR, and the Addendum to the Biological Resources Technical Report (included as Appendix K2A to the Final EIR) that includes analysis of the Refined No Affordable Housing Site Alternative, address the City's specific policies under the approved HMP Conservation Measures within Local Facilities Management Zone 15 that have been instituted under the MHCP pertaining to conservation of habitat. These HMP Conservation Measures are based on a cumulative impact analysis to habitats and wildlife movement corridors of the projects highlighted within the Local Facilities Management Zone 15, including the proposed Dos Colinas Project, College Boulevard – Reach A and Basin "BJ", Holly Springs, Cantarini Ranch, and Rancho Milagro Projects. Overall, compensatory measures implemented by each project to reduce jurisdictional impacts to federally and state regulated waters (inclusive of wetlands) to a level below significance will contribute to the cumulative preservation of habitat and conversion of these lands to Hardline Conservation Areas in a westward direction, primarily supporting Agua Hedionda and Little Encinas Creek and buffer areas as corridors. Thus, it is determined that the Biological Resources Report (Appendix E), as well as the Addendum to the Biological Resources Technical Report (included as Appendix K2A in the Final EIR), and the Draft and Final EIR, provide an adequate analysis of the required HMP Conservation Measures that cumulatively address potential impacts to wetlands; and furthermore, as mentioned above, the proposed Dos Colinas project would not result in any direct impacts to Agua Hedionda Creek.

## Comment Letter F

(cont'd.)

watershed. While the direct project wetlands impacts appear to have been avoided, there are indirect impacts associated with the buffers, and other hydrologic system changes. Please note that a recent study by a student at UCSD found that AH has had extensive wetlands loss- and that mitigation has been significantly less than the 3:1 ratio now required. Field inspection of many of the restoration sites will show that the actual results are even worse than they appear on paper. (This study was included with comments on the Master Drainage Plan project EIR is hereby included by reference.)

F-55

(cont'd.)

What percent of built out area has any storm water protection in place? How much unprotected run-off is currently flowing onto the project site and how will this be addressed? Why do beach closures continue and water quality testing of the lagoon show continued degradation? How much more impervious cover will be added and what impact will this have on the watershed?

F-56

There is no evidence to support the conclusion that BMP's on new construction alone are sufficient to prevent adverse cumulative impacts to hydrology and the adverse impacts on the lagoon and coastal waters. Revised drainage for existing development including removing hardscape, increasing pervious cover, using drainage swales are all opportunities to mitigate retroactively.

F-57

All of this needs to be assessed as part of the cumulative impacts for this project.

( ) The ability of the regional wildlife corridors to still support adequate wildlife movement to maintain a healthy core area needs to be evaluated in light of all of the proposed impediments to wildlife movement along this corridor. The impact is not just from this one area- but the combined impacts of all of the barriers and constrictions that will impact the regional and local wildlife movement corridors.

F-58

### Green House Gas Analysis

( ) App C2 GHG Study July 13, 2010 Page 6 identifies 4 potential adverse impacts to biological resources: timing of ecological events, geographic range, species composition within a community and ecosystem processes." It then goes on to state that while these may be assessed at a global or statewide level "in general scientific modeling tools are currently unable to predict what impacts would occur locally." This project has local impacts and the project area is covered by an adopted conservation plan. This adopted plan, the HMP has a time frame of 50 years. The DEIR has failed to adequately assess potential adverse impacts to biological resources in the four areas they identify that global warming could cause adverse impacts. This analysis should consider the potential adverse impacts on the target species covered by the HMP at a minimum.

F-59

( ) The 2009 California Climate Adaptation Strategy identifies several near-term actions for the protection of biodiversity and sensitive habitats. While specific thresholds have not been identified for determining the significance of local impacts under CEQA, these identified near-term action items are appropriate for inclusion as part of the general response to addressing climate change. The full report can be found at [www.climateaction.ca.gov/adaptation](http://www.climateaction.ca.gov/adaptation). These near term actions, particularly items a and d, included in the Attachments should be included in the GHG mitigation measures for the management of all of the designated open space areas. Please revise the analysis of GHG to include further consideration of all of the issues identified in the 2009 Climate Adaptation Strategy, particularly the near term actions.

F-60

12

## RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)

### Response to Comment F-56:

The existing Dos Colinas site consists of approximately 46 acres of vacant, undeveloped land that currently has no stormwater protection and generally drains in a westerly direction into five discharge points before exiting the site. East of the CCRC site is currently undeveloped, but is the future site of the Cantarini Ranch/Holly Springs residential development. To the north, at the northwest corner of the intersection of Cannon Road and College Boulevard, is an existing residential development; and the adjacent quadrant (northeast) is under construction for the development of a high school. At this time, the areas surrounding the site that would flow on and through the CCRC site contain no storm water protection due to the existing native landform and vegetation. Upon completion of the project and College Boulevard Reach "A", this westerly flow would be redirected from the offsite undeveloped areas into the proposed storm drain system associated with the College Boulevard Reach "A" and onsite (within the CCRC) into one of the detention basins or storm drain connections.

The Affordable Housing Site is located at the intersection of Sunny Creek Road and College Boulevard. Sunny Creek apartments are located to the east and southeast of the project, and drain into existing storm drains within the projects and adjacent roadways. The terminus of College Boulevard, which will be extended up to Cannon Road, does currently drain onto the westernmost portion of the site, but will be redirected into the proposed stormdrain system that would be installed with the completion of the College Boulevard Reach "A" portion of this project.

Under the proposed project, and as discussed in Section 5.12, a Hydromodification Analysis was prepared for the project (Appendix J4 on the attached CD to the Draft EIR) and the site would result in approximately 33.71 acres of impervious surface within the CCRC site and .99 acre within the Affordable Housing Site (See Table 5.12-7 of the Draft EIR). This impervious area, along with treatment of surface runoff before discharge, would not result in impacts on the watershed due to the redirection of onsite flows into the proposed detention basins or stormdrain connections.

The commenter raises questions concerning beach closures and water quality testing downstream. This comment does not provide any link to the proposed project or the adequacy of analysis within the EIR. Section 5.12 of the Draft EIR does contain analysis of the existing water quality issues of Agua Hedionda Creek and Lagoon, including both construction and operational effects of the project on surrounding water quality.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-56: (cont'd.)**

Where potential impacts to water quality were identified, mitigation measures which include the preparation of a Storm Water Pollution Prevention Plan (SWPPP) and Stormwater Management Plan (SWMP) in compliance with the City's Standard Urban Stormwater Mitigation Plan (SUSMP), and a Final Hydromodification Plan to reflect final grading and design of the site, are required for the project as mitigation measures WQ-1, WQ-2, and WQ-3.

No specific data or analysis was provided by the commenter to require further analysis or mitigation. Please also refer to Response to Comments F-14 through F-7 for additional information on specific points concerning project hydrological and water quality analysis and impacts raised by this commenter.

**Response to Comment F-57:**

The commenter has asserted an opinion that sufficient evidence has not been presented concerning the effectiveness of BMPs for potential impacts to water quality. As noted in Response to Comment F-17, the Draft EIR contains analysis of the project's potential effects on hydrology and water quality and mitigation measures (WQ-1, WQ-2, and WQ-3) requiring the preparation and submittal of a final Storm Water Pollution Prevention Plan (SWPPP), Hydromodification Plan, and Stormwater Management Plan, with industry-approved BMPs appropriate for the project site and the development type. No specific data or analysis was provided by the commenter to require further analysis or mitigation.

As applicable to Comment F-57, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). Under the refined alternative the proposed discussion and response related to the CCRC above would apply. The Refined No Affordable Housing Site Alternative would redirect onsite flows from development into the detention basins or stormdrain connections. Further analysis of this refined alternative has been included in Section 6.4 of the Final EIR and updated technical analysis was prepared and included in Appendix K3 on the attached CD.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-58:**

The key concept in wildlife corridors is landscape connectivity, where core areas must be connected. The City defines a "core" as "A component of the preserve system established under the HMP, consisting of large blocks of conserved habitat capable of sustaining species over time" and a "corridor" as "A defined tract of land, usually linear, through which a species must travel to reach habitat suitable for reproduction and other life-sustaining needs" (City of Carlsbad, 2004). Although not identified as a formal corridor, the Carlsbad HMP references the wildlife corridor status of Agua Hedionda Creek, which runs through the southern portion of the study area. Therefore, the riparian habitats in association with Agua Hedionda Creek and any native upland habitats which lie adjacent to the creek and provide a buffering effect or contribute to the corridor's effectiveness would be considered sensitive.

As mentioned above within Response to Comment F-55, both the proposed project and the Refined No Affordable Housing Site Alternative would not directly impact Agua Hedionda Creek. Furthermore, the refined alternative, which is being recommended for implementation by the city and is supported by the applicant, would further reduce impacts into the adjacent buffer areas along Agua Hedionda Creek. The project's impact on wildlife corridors within the project vicinity was analyzed within the Draft EIR and the cumulative conservation of habitat by local projects within Zone 15 under the City's adopted HMP detailed above in Response to Comment F-55 would preserve and enhance habitat for any federal and/or state-listed threatened or endangered species located within this corridor. Thus, the Biological Resources Report (Appendix E), as well as the Addendum to the Biological Resources Technical Report (included as Appendix K2A in the Final EIR), and the Draft and Final EIR provide an adequate analysis of the required HMP Conservation Measures that cumulatively address potential impacts to this wildlife movement corridor from this project as well as the other combined projects located within this region.

**Response to Comment F-59:**

The commenter has asserted that the EIR prepared for the Dos Colinas project should include analysis of the four areas noted in the Greenhouse Gas Study (Appendix C2 to the Draft EIR) relative to the project's contribution of GHG toward climate change. As noted in the study, these areas of potential effect of climate change on plants and animals – timing of ecological events; geographic range; species composition within communities; and ecosystem processes – is a global issue that cannot be adequately analyzed on a local level for "direct impacts". However, such effects of a project on biological resources, including flora and faunal species, wildlife corridors, and sensitive habitats (i.e., wetlands and uplands), are analyzed in detail within Section 5.6 of the Draft EIR.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-59: (cont'd.)**

Furthermore, the project's contribution to GHG emissions was analyzed and included in the Draft EIR within Section 5.4. Significant impacts associated with the project were identified, and mitigation measures to reduce both construction and operational emissions were included (GHG-1 and GHG-2), and would, upon implementation, result in a reduction of GHG emissions by 32 percent, which is considered to be less than significant effect. Therefore, since the project would have a less than significant effect with the implementation of mitigation, it could be assumed that the project's effect with respect to GHG emissions would have a less than significant effect on the environmental effects, specifically biological, as a result of climate change.

Following the circulation of the Draft EIR it was noted that a thermal cogeneration system, which would include both thermal solar and photovoltaic energy production, and a geothermal heat pump were included within the assumed operational measures that would be implemented to reduce GHG emissions. At this time the applicant has not determined if these or similar measures will be included in the CCRC/Professional Care Facility design. Therefore, the GHG analysis has been revised in an Addendum to the technical report to exclude the GHG emission reduction associated with the thermal cogeneration facility and geothermal heat pump. However, the proposed project would still include other specific design features that would reduce GHG emissions by approximately 953 metric tons CDE per year, which is approximately 32 percent. This information has been updated in the Final EIR and the addendum has been included in Appendix K4 (on the attached CD).

As applicable to Comment F-59, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). Additional analysis of the generation of GHG emissions for the refined alternative was prepared and is included in the addendum in Appendix K4 to the Final EIR. The results of this analysis revealed that the Refined No Affordable Housing Site Alternative would result in the generation of 636.32 metric tons of emissions. Compared to a Business-As-Usual scenario that is reflective of the refined alternative (305 units), the Refined No Affordable Housing Site Alternative would result in a reduction of 1,395 metric tons CDE per year or approximately 48 percent reduction in GHG emissions. This analysis has been included in Section 6.4.1.4 of the Final EIR to further clarify the reduction in emissions associated with the refined alternative.

**RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)**

**Response to Comment F-60:**

The commenter has highlighted the *2009 California Climate Adaptation Strategy*, prepared in response to Governor Schwarzenegger Executive Order S-13-08. Specific reference to "near term actions, particularly items a and d, included in the Attachments" was included within this comment. However, upon review of the *Strategy* it was unclear what "a through d" the commenter was highlighting.

Table 6 and 7 of the Greenhouse Gas Study (and as modified in the 2011 Addendum), included review of the project's consistency with many of the strategies from the report. As mentioned above in Response to Comment F-59, both the proposed project and refined alternative would include mitigation for any potential impacts, both construction and operational, related to GHG emissions and climate change. Under both operational scenarios these mitigation measures would reduce emissions by more than the 28.3 percent of the Business-As-Usual scenario, which is a commonly accepted threshold.

To further clarify the project's effects and contribution, the Bay Area Air Quality Management District (BAAQMD) threshold for a per capita efficiency was added to the analysis within Section 5.4 (proposed project) and Section 6.4.1.4 (Refined No Affordable Housing Site Alternative) of the Final EIR. For both of the development scenarios, the per capita efficiency was below the 4.6 metric tons CO<sub>2</sub>e per service population (residents and employees) per year, with 3.85 metric tons per service population for the proposed project, and 3.14 metric tons per service population for the refined alternative, with the energy efficiency measures incorporated for either project development proposal, below the BAAQMD threshold.



## Comment Letter F

(cont'd.)

( ) The GHG analysis assumes a reduction in air quality impacts associated with reduced auto use because of the proximity of NCTD bus routes 309 and 444. Please indicate the exact distances for residents of both the senior and affordable housing areas to access these bus routes. It appears to us that the actual travel distance for all or most residents exceeds the ½ mile distance which is usually considered the limit of significant increases in bus use and the ¼ mile necessary for smart growth sites. For seniors the distance is usually just ¼ mile.

F-61

( ) The TDM measures listed on page 10 of the GHG study are identified as “part of the proposed project but not part of the business-as-usual scenario.” It is our understanding that these measures are all part of the project mitigation for GHG but these are not specifically called out in the mitigation measures, nor are there any provisions to assure that these continue for the life of the project. In some cases the item is just to “advocate” for something that has no assurance of success. In others, like the shuttle service, there is insufficient detail to determine whether it will have any impact- or that it will continue for the life of the project. Further specificity is required for all of the identified TDM measures, they need to be identified as a MM, and there needs to be a mechanism in place that assures they or an equivalent will continue for the life of the project.

F-62

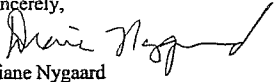
### Conclusions

We believe these comments fully support our recommendations and demonstrate the need to conduct further technical studies, make project modifications, include better mitigation measures and add a project alternative that fully complies with the HMP.

Thank you for your consideration of these comments. We look forward to working with you to implement this project- in a way that addresses concerns about the Agua Hedionda watershed and wildlife movement corridor in this very special area of the city.

F-63

Sincerely,

  
Diane Nygaard  
On Behalf of Preserve Calavera

Cc: David Lawhead CDFG, Janet Stuckrath USFWS, Mike Porter RWQCB

Att : (Included with hard copy)

State of the State Wetlands, Natural Resources Agency State of California June 2010 p. 16  
2009 California Climate Adaptation Strategy pp 59-61  
Guidelines to Wetland and Riparian Buffers, City of Carlsbad April 9, 2010, p. 13

### References

Carlsbad Watershed Plan, Carlsbad Watershed Network, November, 2000.  
Delano, Everett, Esq., Letter of April 2, 2001 to Eric Munoz, Senior Planner City of Carlsbad  
Agua Hedionda Watershed Management Plan Tetratech August 2008  
College and Cannon Carlsbad High School Site Wildlife Movement Study, prepared for Carlsbad Unified School District, Dudek April 2010

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## RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED NOVEMBER 5, 2010 (COMMENT LETTER F) (continued)

### Response to Comment F-61:

The bus routes for 309 (Oceanside to Encinitas via El Camino Real) and 444 (Carlsbad Poinsettia – COASTER Connection) currently operate along El Camino Real. The bus routes are located approximately ½ mile from the Dos Colinas project at the intersections of El Camino Real and Cannon Road (309) and El Camino Real and College Boulevard (444). However, please note that the improvements plans for College Boulevard include a bus stop adjacent to the Dos Colinas southerly project driveway and it is expected that this would be utilized for future service by NCTD. Additionally, shuttle service would be provided for occupants as part of the operations of the proposed Dos Colinas senior care facility.

### Response to Comment F-62:

The TDM operational measures referenced in this comment, which include vanpool and shuttle service for senior residents, van use and shuttle service to public transportation for employees, and carpool promotion and parking spaces for employees, have been specifically referenced in mitigation measure GHG-2 of the Final EIR.

### Response to Comment F-63:

The commenter's specific concerns and requests for additional information and analysis has been responded to throughout the responses to comments made within this letter. Where warranted, additional analysis and/or graphical representation have been included in the Final EIR to further clarify both the project's potential effects and, as necessary, mitigation. Furthermore, as noted throughout the responses, the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce impacts associated with the development of the proposed CCRC by eliminating the grading and development under the proposed project on the Equestrian Parcel (APN 209-060-71). The analysis for the Refined No Affordable Housing Site Alternative, which is the recommended project design supported by both City staff and applicant for consideration by the City Council for adoption and implementation, has been expanded in the Final EIR in Section 6.4 to provide further comparative analysis with the proposed project.

From: Guidelines for Wetland and Riparian Buffers  
City of CR April 9, 2010

2. The Protection and Separation Zones of the wetland and riparian buffers shall be individually identified on preserve area maps. Once established, the Protection and Separation Zones of an approved riparian/wetland buffer shall be incorporated into the City's HMP preserve.
3. The Protection and Separation Zones should be primarily managed for wildlife habitat, open space, and stormwater treatment, and should have no impervious surfaces or structures, except for paved access roads to stormwater facilities, erosion control drop structures, and flood control facilities.
4. If possible, Native vegetation within the Protection and Separation Zones shall not be altered. If disturbed, the area shall be (re)vegetated or landscaped with pre-development upland or upland / riparian transitional vegetation, consisting of native vegetation with species type and cover appropriate for site conditions within the buffer.
5. Parts of the Protection and Separation Zones where no pre-existing native riparian or upland vegetation was present prior to development, will be landscaped / vegetated with a temporary erosion control hydroseed mix consisting of native grasses and annual species. In addition, <5% non-native species will be allowed in these parts of the buffer, with no invasive exotic vegetation allowed.
6. Within the Transition Zone, non-invasive ornamental species such as turf grasses and non-invasive succulent groundcovers would be acceptable; however, native landscaping would be preferred.

## 2.5 Alternative Buffer Configurations

Applicants may request Alternative Buffer Configurations (ABCs) for specific projects to allow some reduction of buffer dimensions so long as the critical functions of the buffer and riparian systems are not impaired. A change (e.g., a reduction or increase) in buffer width could only occur in the Separation or Transition Zone; a change in the Protection Zone width is not allowed. Any proposed variation or deviation from the standard buffer configurations for a specific site shall require sufficient information to demonstrate that an alternative buffer design (i.e., buffer of lesser width) would be adequate to protect the functions and values of adjacent wetlands and/or riparian habitats. Such information may include, but is not limited to: geomorphic characteristics, including slope and erodibility of soils, wetland integrity, habitat quality within the buffer, adjacent land use, the size and type of the development, and any proposed mitigation that will also achieve the purposes of the buffer (see Section 3.0 for more information). Note that alternative buffer configurations may not be approved if the area drains to a Clean Water Act (CWA) 303d-listed impaired water body. The City of Carlsbad shall consult with California

From 2009 California Climate Adaptation Strategy  
climateaction.ca.gov/adaptation

1. **Develop Implementation Incentives for participation by private landowners and local land use agencies** – Pursue incentives to increase participation in implementation by private landowners and regional and local land use authorities. Private landowners are often able to effectively and efficiently provide critical habitat on working landscapes and are a key component of this strategy.
1. **Improve Reserve System Functionality** – Support research that indicates how to improve ecological integrity in reserve areas through acquisition or other forms of land protection that do the following: provide internal and external connectivity, increase soil elevational or latitudinal gradients, protect private lands from habitat conversions, enlarge the reserve consistent with endemic species movement, improve configuration of protected lands, and protect evolutionary hot spots.
- k. **Adaptive Management-Review of Reserve System** – Periodically the state will need to evaluate and review the long-term success of the Statewide Reserve System in conserving species and new habitat configurations associated with climate change. Determine degree of success of reserves and their improvements in light of keystone species movement as well as monitoring population numbers and viability. This kind of monitoring will be key to understanding what is and is not working to inform management actions and make decisions about whether to adopt new strategies, e.g., modifications to reserve system as appropriate.
1. **Remove Federal Barriers** – Pursue modifications to laws, regulations and practices that provide barriers to linking protected areas especially those that impede the National Park Service, U.S. Forest Service and U.S. Fish and Wildlife Service from land acquisition that creates important landscape linkages and improves the reserve system beyond Congressional boundaries and encourages federal assistance that would strengthen the landscape reserve system.

## Strategy 2: Management of Watersheds, Habitat, and Vulnerable Species

Maintaining and restoring ecosystem function is a cornerstone of natural resource adaptation. As appropriate the State will need to determine whether to pursue actions that increase the resistance to climate change, promoting resilience, enable ecosystem responses, or realign restoration and management activities to reflect changing conditions<sup>39</sup>. Actions intended to resist climate change forestall undesired effects of change and/or manage ecosystems so they are better able to resist changes resulting from climate change. Resilience focuses on managing for "viable" ecosystems to increase the likelihood that they will accommodate gradual changes related to climate and tend to return toward a prior condition after disturbance. Response is an intentional management action intended to accommodate change rather than resist it by actively or passively facilitating ecosystems to respond as environmental changes accrue.

Realigning management activities focuses on the idea that rather than restoring habitats to historic conditions, or managing for historic range of variability the managing entity would realign "restoration" and management approaches to current and anticipated future conditions<sup>40</sup>. Since species will respond differently to climate change and strategies will need to evolve as research and monitoring produce new information the State will need to establish a clear process to identify priority species and systems for adaptation management projects as a short-term action and include an adaptive management response.

### Near-Term Actions:

- a. **Integrate Climate Change Into Field Management** – Each land managing entity in the state should commit to reviewing and modifying current land and resource management objectives and practices to reduce environmental stressors and improve watershed conditions and ecosystem services on major holdings.

- b. **California Wildlife Action Plan (Action Plan)** – Local, regional, and state wide land use and conservation plans should incorporate important regional actions to improve habitat and animal populations identified in the Action Plan. These actions should be considered priorities for implementation of stewardship efforts.
- c. **Use and Improve Existing Conservation Efforts** – Department of Fish and Game's Natural Communities Conservation Program, Areas of Conservation Emphasis and mitigation banking should be continually supported as effective methods of identifying and protecting priority habitat areas. With appropriate resources these programs could use dynamic habitat-based models to improve identification of conservation areas.
- d. **Field Restoration and Improved Protection** – Managers of conservation lands, including working landscapes, should continue restoration and other land stewardship practices. State and federal agencies should seek resources and expertise that will help them expand capacity to reduce environmental stressors, improve watershed conditions and restore ecosystem services on priority lands. Reducing stressors includes but is not limited to:
  - i. Eliminating or controlling invasive species
  - ii. Restoring natural processes as appropriate
  - iii. Maintaining natural disturbance regimes
  - iv. Reduce unnatural sediment flows by improving drainage and maintenance of unpaved roads
  - v. Remove barriers to terrestrial and aquatic species movement
  - vi. Reduce risks of catastrophic wildfire
  - vii. Reduce and/or control pollution from runoff and flooding.
- e. **Restore Aquatic Habitat** – With appropriate resources prioritize conservation and management actions on aquatic systems (including but not limited to associated floodplains, riparian zones, springs, and marshes) for monitoring and restoration efforts that will reduce stress on species resulting from events associated with climate change (i.e., increased sedimentation from flooding events). Management actions to assist in the reduction of existing stressors include, but are not limited to:
  - i. Maintain and increase genetic diversity of all native anadromous spawning runs
  - ii. Protect cold water resources
  - iii. Maintain habitat complexity
  - iv. Connect river/streams and floodplains
  - v. Protect high elevation alpine meadows, springs, and riparian areas
  - vi. To the extent possible limit interaction between wild and hatchery fish
  - vii. Temper unusual high and low flows
  - viii. Restore estuaries, sloughs and marshes

Long-Term Actions:

- f. **Managing Endemic and Other Priority Species** – Identify movement patterns of key species, especially latitudinal and elevational movement patterns in order to inform restoration and other stewardship activities that will aid in the conservation and management of species and habitats.
  - i. Identify climate change impacts to declining and vulnerable species and integrate climate change adaptation strategies into their management.
  - ii. Develop and implement recovery plans that analyze, among other factors, the effects of climate change on declining and vulnerable species and outline conservation strategies for their persistence and recovery under changing climate conditions.
  - iii. Prioritize monitoring and research necessary to identify species threatened by climate change.

- g. **Restoration Cost/Benefit Assessment and Climate Change** – Develop guidance for restoration practitioners to determine whether the objectives of large-scale restoration project take into account climate change scenarios and encourage the use of risk analysis to inform project planning and implementation.
- h. **Minimizing catastrophic events and habitat conversions** – Develop management recommendations that minimize habitat conversions and other large scale losses from catastrophic events, including crown fire, flooding, invasive species, diseases, pests and pathogens.
- i. **Establishing Priorities** – Develop criteria for determining where limited conservation resources should be placed in order to have the most benefit.
- j. **Water: Enhance and Sustain Ecosystems** (see also Water Management Chapter)
  - i. Water management systems should protect and reestablish contiguous habitat and migration and movement corridors for plant and animal species related to rivers and riparian or wetland ecosystems.
  - ii. Flood management systems should seek to reestablish natural hydrologic connectivity between rivers and their historic floodplains.
  - iii. The state should work with dam owners and operators, federal resource management agencies, and other stakeholders to evaluate opportunities to introduce or reintroduce anadromous fish to upper watersheds.
  - iv. The state should identify and strategically prioritize for protection lands at the boundaries of the San Francisco Bay and Sacramento-San Joaquin Delta that will provide the habitat range for tidal wetlands to adapt to sea-level rise.
  - v. The state should prioritize and expand Delta Island subsidence reversal and land accretion projects to create equilibrium between land and estuary elevations along select Delta fringes and islands.
  - vi. The state should consider actions to protect, enhance and restore upper watershed forests and meadow systems that act as natural water and snow storage.
  - vii. The state should consider whether there are other geographic regions where these assessments should also be applied.

**Strategy 3 - Regulatory Requirements**

Near-Term Actions:

- a. **CEQA Review/Wildlife** – The Departments within the Natural Resources Agency will continue to use the California Environmental Quality Act (CEQA) process to address the climate change impacts from projects on wildlife, including cumulative impacts.
- b. **CEQA Review/Department Guidance** – The Department of Fish and Game will initiate the development of internal guidance for staff to help address climate adaptation and to ensure climate change impacts are appropriately addressed in CEQA documents

Long-Term Actions:

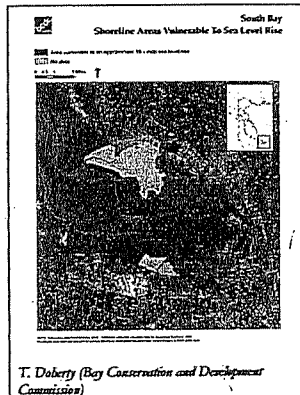
- c. **Adaptive Capacity/CEQA Thresholds** – Based on climate change scenarios, the Department of Fish and Game should work to develop thresholds of significance for the adaptive capacity of species related to any direct, indirect and cumulative impacts of projects.

# Comment Letter F Attachment

(cont'd.)

From: State of the State Wetlands June 2010

If wetland restoration projects can be designed and managed to provide long-lasting reduction of greenhouse gas (GHG) emissions, then these projects could become eligible for a significant new source of funding, through sale of carbon offsets. There is a growing voluntary offset market, with organizations and individuals interested in offsetting their greenhouse gas emissions, providing funding for projects that result in reduction of greenhouse gas emissions. In addition, under various state, regional, international and a pending national cap-and-trade system for reduction of GHG emissions, emitters can or will be able to purchase carbon offsets in order to meet reduction targets. Currently there is a strong emphasis on industrial and agriculture source reduction and capture. Without the critical science and policy work necessary to develop habitat-based sequestration resources, wetland habitat sequestration options may not materialize.



## HOW HEALTHY ARE CALIFORNIA'S WETLANDS?

Answers to this question are just beginning to emerge. The state of California recently completed a study of the health of salt marshes (Sumala et al. 2008) and is conducting an ongoing study of the health of wadeable streams using, among other methods, the California Rapid Assessment Method (CRAM) for wetlands ([www.cramwetlands.org](http://www.cramwetlands.org)). CRAM measures the overall health of a wetland based on the integrity of its marsh plant community (Biotic Structure), Hydrology, Physical Structure and quality and quantity of the buffer that surrounds the wetland (Landscape Context). CRAM also identifies possible causes of poor wetland health by identifying so called "stressors" (Table 2-3). Disturbance from natural forces such as floods, fires, sea level rise, and climate change can also result in poor health and must be taken into consideration when identifying management measures to improve health.

Table 2-3. Types of "stressors" cause poor wetland health.

<ul style="list-style-type: none"> <li>• Habitat fragmentation</li> <li>• Altered hydrology and flood control structures</li> <li>• Reduced water supply</li> <li>• Altered sediment transport and organic matter loading</li> <li>• Physical barriers to movement of water, sediment, and fauna</li> <li>• Dredging, filling, diking, and ditching</li> <li>• Shoreline hardening, engineered channel, bed, and bank</li> </ul>	<ul style="list-style-type: none"> <li>• Human land use in wetland buffer</li> <li>• Toxic contaminants, nutrient over-enrichment, and pathogenic bacteria</li> <li>• Invasive plants and animals</li> <li>• Excessive human visitation</li> <li>• Predation from feral animals and domestic pets</li> <li>• Compaction and trampling by livestock</li> <li>• Removal of vegetation</li> </ul>
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**From:** Dan Silver [mailto:dsilverla@me.com]  
**Sent:** Tuesday, October 26, 2010 2:40 PM  
**To:** Shannon Werneke  
**Subject:** Dos Colinas

**Comment Letter G**

October 26, 2010

Shannon Werneke

Carlsbad Planning Dept

1635 Faraday Ave

Carlsbad, CA 92008

**RE: Dos Colinas**

Dear Ms. Werneke

The Endangered Habitats League (EHL) supports Carlsbad's HMP and its proper implementation. We have briefly reviewed the DEIR's biology section in this regard, and appreciate the detailed attention to the HMP, wildlife corridors, floodplain standards, etc. We note that consistency will also be confirmed with the wildlife agencies, such as on buffer requirements.

G-1

Please maintain EHL on distribution lists for projects that affect the HMP.

Sincerely,

Dan

Dan Silver, Executive Director  
Endangered Habitats League  
8424 Santa Monica Blvd., Suite A 592  
Los Angeles, CA 90069-4267

213-804-2750  
[dsilverla@me.com](mailto:dsilverla@me.com)  
[www.ehleague.org](http://www.ehleague.org)

**RESPONSE TO COMMENT LETTER FROM ENDANGERED HABITATS LEAGUE, SIGNED BY DAN SILVER, EXECUTIVE DIRECTOR, DATED OCTOBER 26, 2010 (COMMENT LETTER G)**

**Response to Comment G-1:**

This comment generally notes the commenter's support of the City of Carlsbad HMP and its implementation, and provides reference to the project's review for consistency with the City HMP by the wildlife agencies. Commenter's points are noted and prior to consideration of the project for approval by the City Council, the City will require the project applicant to obtain a letter from the U.S. Fish and Wildlife Service and the California Department of Fish and Game stating these agencies' concurrence that the project is consistent with the provisions of the HMP. The City will ensure that the commenter is included on all distribution lists for this project.

## Comment Letter H

*Rancho Carlsbad* Owners' Association, Inc.  
5200 El Camino Real, Carlsbad, California 92010-7118  
Phone: (760) 438-0333 Fax: (760) 438-1808

November 9, 2010

Ms. Shannon Werneke  
City of Carlsbad Planning Department  
1635 Faraday Avenue  
Carlsbad, CA 92008

Re: Dos Colinas EIR Response in Support of the Project  
Providing the Replacement Site is Approved

Dear Ms. Werneke:

This correspondence is written on behalf of the Rancho Carlsbad Owners' Association, Inc. ("RCOA") and its Negotiating Committee. Our Negotiating Committee has reviewed all facets of this document and particularly the planned relocation site on which to situate the physical improvements of RCOA which will be removed due to the construction of College Boulevard and the detention basin.

H-1

The new relocation site, as generally described in Section 3.2 and as shown in Figure 3-5 of the Dos Colinas, Draft Environmental Impact Report (EIR") is supported by RCOA as it buffers much of our eastern border. *See also, EIR Section 2.2 Figure 5.11-14* for a cross section of the RV storage. Our residents have close access to the RV site and gardens and both areas will be secure. The site mitigation and landscape plans are to our liking and our overall security is enhanced by a continuous wall along both of our property lines bordering College Boulevard. We understand Dos Colinas intends to maintain 24 hour manned security that complements our own. We gain ownership of the relocation site, 6.4 acres, offsetting the 7+ acres needed for basin BJ.

H-2

Section E of the EIR which discusses the floodplain management regulations and plans is supported by RCOA. The confirmation that Detention Basin BJ will be constructed and is anticipated to provide additional flood protection to RCOA is supported. *See, EIR Section F, 4 & 6*, although the new location of the RCOA replacement site will impact the floodplain. Implementation of Mitigation Measures B-1 and B-2 will reduce the impact to a level less than significant. *See, EIR Section 5.6. C*. The existing habitat impacted as a result of the RCOA Relocation Site is very limited to extensive agriculture, disturbed habitat, and urban/developed lands. Notwithstanding the foregoing, the impact, if any, on habitat is offset by the creation of the Basin BJ which removes urban/developed lands, e.g., the RCOA facilities being relocated. *See, EIR, Section 5.6.4.4 HMP Consistency at p.43-44.*

H-3

### RESPONSE TO COMMENT LETTER FROM RANCHO CARLSBAD OWNER'S ASSOCIATION, INC., SIGNED BY BARBARA BEVIS, PRESIDENT, DATED NOVEMBER 9, 2010 (COMMENT LETTER H)

#### Response to Comment H-1:

The commenter states that the correspondence is written on behalf of the Rancho Carlsbad Owners' Association, Inc. (RCOA) and their Negotiating Committee. No further response is necessary.

#### Response to Comment H-2:

RCOA supports the creation of a new recreational vehicle storage and garden site along the northwestern boundary of the project site as shown in the Draft EIR. RCOA agrees with the site mitigation, landscaping plans, provision of 24-hour manned security at the Professional Care Facility, and the transfer of site ownership to RCOA. This comment does not raise issues with regard to the adequacy of the EIR; no further response is necessary.

#### Response to Comment H-3:

RCOA supports the analysis and discussion within the EIR regarding floodplain impacts and mitigation measures from the proposed new recreational vehicle storage and garden site. RCOA also concurs with the description of the existing habitat at the proposed new recreational vehicle storage and garden site in the EIR. This comment does not raise issues with regard to the adequacy of the EIR; no further response is necessary.

## Comment Letter H

(cont'd.)

Ms. Shannon Werneke  
City of Carlsbad Planning Department  
Dos Colinas Response in Support of the Project

Page 2

Further and as to the additional construction, the extensive hydro-modification system being constructed to handle storm water runoff should eliminate any concerns of added flood risk for our downstream residents. *See, Section 5.12.3.3; Figure 5.12-6; Section 5.14.5.3; Table 5.14-2 5.14-3.*

H-4

RCOA currently has only one point of ingress and egress for its 504 residents. With the approval of the Dos Colinas project, RCOA will gain a second emergency exit road from within our community through the Dos Colinas streets exiting onto College Boulevard. This completes a long standing City of Carlsbad safety requirement. *See, EIR Section 5.14.6.3.*

H-5

The population age group of future residents of the Dos Colinas complex complements to a great extent our own older adult community of 55+. *See, EIR Section 5.1.B.* And finally, although not a part of the EIR study, through an associate management groups recent take over of the adjacent golf course and more recent upgrading, is an added bonus as many of our residents use that recreational facility.

H-6

The one primary goal of our negotiating committee and with total support of our governing board throughout this long process of encroaching development, highway construction and improved flood control was to try as much as possible to maintain our property, infrastructure, improvements, security and lifestyle. The Dos Colinas development has met all those goals.

Relocation of our facilities currently located on our Parcel #4 and construction of the BJ flood water detention basin have been long term concerns of our community. The Dos Colinas EIR addresses these issues, but only indirectly, as both of these concerns of ours are triggered by the construction of College Boulevard Reach A. Our relocation site is part of this EIR report and certain wetlands and in-fill issues caused by this proposed project are, we understand, addressed by the construction of the BJ basin. Dos Colinas in turn needs that highway to be built in order to have public access to their property. Our response to this EIR would be incomplete, in our opinion, without consideration of prior findings in the earlier Bridge & Thorofare District #4 EIR (2002) that included the construction of College Reach A.

H-7

Rancho Carlsbad is probably the only neighboring property owner that will have construction impacts on its existing property. These impacts are to our parcel #3 and parcel #4, easement requirements on parcel 3, 4 and possibly parcel #1; in addition to the planned relocation parcel to be deeded to us after the agreed infrastructure on this site is completed. We have had favorable discussions and agreements with Dos Colinas

H-8

### RESPONSE TO COMMENT LETTER FROM RANCHO CARLSBAD OWNER'S ASSOCIATION, INC., SIGNED BY BARBARA BEVIS, PRESIDENT, DATED NOVEMBER 9, 2010 (COMMENT LETTER H) (continued)

#### Response to Comment H-4:

RCOA agrees that the extensive hydro-modification system constructed as part of the proposed project would handle storm water runoff and eliminate the concerns of added flood risk for downstream residents. This comment does not raise issues with regard to the adequacy of the EIR; no further response is necessary.

#### Response to Comment H-5:

This comment notes RCOA's support of the construction of a secondary emergency access road from within Rancho Carlsbad Estates, through the proposed project, exiting onto College Boulevard. This comment does not raise issues with regard to the adequacy of the EIR; no further response is necessary.

#### Response to Comment H-6:

The commenter states that the population age group of future residents at the adjacent CCRC site would complement the Rancho Carlsbad Estates' older adult community and that the proposed project will maintain Rancho Carlsbad Estates' property, infrastructure, improvements, security and lifestyle. This comment does not raise issues with regard to the adequacy of the EIR; no further response is necessary.

#### Response to Comment H-7:

The commenter has noted that there have been long-term concerns expressed by the Rancho Carlsbad Estates community related to the relocation of the existing RV Storage area and the construction of Basin "BJ". The commenter acknowledges that both of these concerns are indirectly addressed by the Dos Colinas project since the construction of College Boulevard Reach "A" triggers the relocation of the RV storage area and the construction of Detention Basin "BJ," both of which were addressed as part of EIR 98-02, Calavera Hills Master Plan Phase II, Bridge and Thoroughfare District No. 4, & Detention Basins. This comment does not raise issues with regard to the adequacy of the EIR; no further response is necessary.

#### Response to Comment H-8:

The commenter notes that there is no clear direction outlining who is financially responsible for relocating the RV storage lot proposed in association with the Dos Colinas project. As the commenter notes, in accordance with the Local Facilities Management Plan Zone 15 requirements, the applicant for College Blvd Reach "A" is required to identify and provide for an RV/garden relocation site. In addition, the applicant is required to provide a financing plan for College Blvd Reach "A"; however, please note that this requirement is not required at this time, but is required to be provided prior to recording of the first final map.

## Comment Letter H

(cont'd.)

Ms. Shannon Werneke  
City of Carlsbad Planning Department  
Dos Colinas EIR Response in Support of the Project

Page 3

representatives on these various details. We have had prior discussions and agreements with others on impacts of the College Boulevard construction. As a result there is no clear line, as far as we are concerned, as to who may be responsible for what!

The financing of College Reach A, as confirmed in the EIR, is the responsibility of the identified developing land owners in the City's Zone 15 financial district. The first developer in that district requesting a "final map" then becomes responsible for fronting the cost and building the highway and then seeks fair share reimbursement from the others who are part of the private finance agreement. Our relocation costs are part of the highway expenses.

Our question is, "Who will be the lead developer building College Boulevard?" If, in fact, it will be Dos Colinas representatives, then we need to deal with only one party. If it will be someone else, we need a clear delineation of responsibility. Furthermore, there is no finance plan in place. Discussions among identified participants have been held in the past; the latest meeting occurring on May 20, 2010, but no action was taken. A meeting Memorandum of Understanding (MOU) was presented at an August 10, 2005 meeting which spelled out certain details regarding our relocation. But, since then, the relocation site was changed to the present one proposed in this EIR. The City of Carlsbad's direct involvement in an option parcel on Robertson Ranch property was not acted on by the City. In addition, environmental issues at that site forced us to seek an alternate. In our opinion, a finance plan for College Reach A needs to be established now. Starting in 2002, our association has spent considerable time and expense in identifying and negotiating all of the many details of replacing the infrastructure we presently have on our parcel #4.

### Some history of Events Impacting Rancho Carlsbad Concerning Relocation

1. In 1998, the City of Carlsbad approved our community as an older adult common interest resident owned condominium association.
2. The City also acquired a right-of-way easement for the future College Boulevard Reach A segment which when built would sever our direct access to our 11 1/2 acre parcel #4.
3. In addition, 7 acres of parcel #4 was to become a flood water detention basin. The construction of College Boulevard would create the retaining wall for that basin.
4. In 2002, Bridge & Thorofare District #4 EIR was certified which dealt with the construction of Cannon Reach's 3 and 4 and College Boulevard Reach's A, B and C. McMillin Construction was charged with building Cannon 3 and College B and C.

## RESPONSE TO COMMENT LETTER FROM RANCHO CARLSBAD OWNER'S ASSOCIATION, INC., SIGNED BY BARBARA BEVIS, PRESIDENT, DATED NOVEMBER 9, 2010 (COMMENT LETTER H) (continued)

### Response to Comment H-8: (cont'd.)

The Dos Colinas project triggers the need to construct College Blvd Reach A and Basin "BJ", the impacts of which are covered by EIR 98-02. Pursuant to the Land Use mitigation measures outlined in EIR 98-02, the project applicant for Basin "BJ" shall secure a minimum 0.24-acre site (exclusive of access roads) for the relocated RV storage parking area. Further, as stated in EIR 98-02, the selected site shall be installed prior to the construction of Basin "BJ." To satisfy the EIR 98-02 and the LFMP requirements, the Dos Colinas project includes plans, which identify and provide for a relocation site of the RV storage and garden areas.

Although this comment does not raise issues with regard to the adequacy of the Dos Colinas EIR, the Dos Colinas project will be accordingly-conditioned to satisfy LFMP Zone 15 requirements, which include ensuring that the improvements for the relocated RV storage area be secured/completed prior to final map approval.

H-8  
(cont'd.)



## Comment Letter H

(cont'd.)

Ms. Shannon Werneke  
City of Carlsbad Planning Department  
Dos Colinas EIR Response in Support of the Project

Page 4

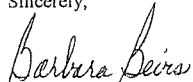
5. McMillin had acquired the east portion of Robertson Ranch and the route of Cannon Reach 3 created approximately 15 acres of land between the south side of Cannon and along the north side of our property line.
6. Now that the highway building of College Boulevard had begun, we looked in earnest for a replacement site. We identified 6 acres of land in this newly created 15 acre site. We successfully negotiated an option to acquire that acreage involving a three party agreement (the City, McMillin and ourselves). The City was to buy the land from McMillin and in turn we would swap the 7 acre BJ basin site needed for flood control for the option land. As mentioned earlier, that option was never exercised.
7. During this period of negotiations, it became apparent to us that David Bentley, who was processing a C.U.P. for his Cantarini/Holly Springs development, would be charged with building College Reach A. In addition, Bentley had approached us about development on the remaining 4 ½ acres of our parcel #4. As a result, we gave Bentley an option to buy all of parcel #4. We also entered into a separate consulting agreement to assist us in our relocation effort and to advance payment of all future third party expenses incurred. We had already incurred and paid over \$100,000 at that point.
8. When it became apparent that the option land property site was for several reasons unfeasible, David Bentley offered a site along our eastern border. He had an option to buy that land as part of 55 acre site and was processing a C.U.P. for a residential development. This is essentially the same site detailed in this EIR today.
9. In 2007, the West Living organization purchased the entire 55 acre site and assured us our planned relocation site would be part of their plans.

H-8  
(cont'd.)

As stated previously, we feel strongly that a College A finance agreement between all identified parties needs to be concluded at this time. Without an agreement moving forward, we would find it difficult as an owner association representing all of our owner residents to give blanket approval to this EIR. Notwithstanding the foregoing, we request approval of the EIR providing the replacement site as designed in the EIR is also approved without alteration.

H-9

Sincerely,



Barbara Bevis,  
President, Rancho Carlsbad Owners' Association, Inc.

BB:pdI

## RESPONSE TO COMMENT LETTER FROM RANCHO CARLSBAD OWNER'S ASSOCIATION, INC., SIGNED BY BARBARA BEVIS, PRESIDENT, DATED NOVEMBER 9, 2010 (COMMENT LETTER H) (continued)

### Response to Comment H-9:

The commenter inquires as to whom the lead developer will be for College Boulevard Reach "A" and further notes that a finance plan needs to be established now, presumably as part of the Dos Colinas discretionary process. Pursuant to LFMP 15(E), a financing program for College Boulevard Reach "A" shall be approved by City Council prior to recordation of the first final map in Development Area 1 of Zone 15.

At this point, there is no lead developer for College Blvd Reach A. The lead developer will be the applicant that constructs College Blvd Reach A. However, the Dos Colinas project is required to construct College Blvd Reach A, therefore, they are required to satisfy the requirements of EIR 98-02 and LFMP Zone 15 prior to recordation of the first final map. As noted above, a financing plan is not required to be finalized as part of the discretionary process. In addition, this comment does not raise issues with regard to the adequacy of the EIR; therefore, no further response is necessary.

**Comment Letter H**  
(cont'd.)

Ms. Shannon Werneke  
City of Carlsbad Planning Department  
Dos Colinas EIR Response in Support of the Project

Page 5

cc: Mayor & City Council, City of Carlsbad  
1200 Carlsbad Village Dr., Carlsbad, CA 92008

Sue Loftin, Esq., 5760 Fleet Street, Carlsbad, CA 92008

Mr. John Rimbach, President., West Living  
5796 Armada Dr., Suite 300, Carlsbad, CA 92008

Mr. Dennis O'Brien, West Partners  
5796 Armada Drive, Suite 300, Carlsbad, CA 92008

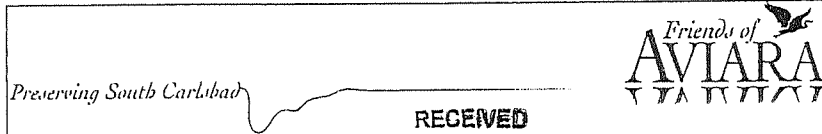
Mr. Bob Ladwig, President., Ladwig Design Group  
2234 Faraday Ave., Carlsbad, CA 92008

Mr. David Bentley, President., Bentley-Wing Properties, Inc.  
7449 Magellan Ave., Carlsbad, CA 92009

Mr. Tim Gnibus, BRG Consulting, Inc.  
304 Ivy St., San Diego, CA 92101

Zone 15 Owners

## Comment Letter I



November 5, 2010

NOV 09 2010

CITY OF CARLSBAD  
PLANNING DEPT.

Shannon Werneke  
Carlsbad Planning Department  
1635 Faraday Ave.  
Carlsbad, CA 92008

Re: Comments on Draft EIR -- Dos Collinas

Dear Ms. Werneke:

These comments on the Draft EIR for the Dos Collinas project are made on behalf of Friends of Aviara (FOA), a citizens group concerned with protecting and preserving the natural resources of Southern Carlsbad, and maintaining the quality of life Carlsbad residents enjoy.

1. Grading & Hillside Ordinance Exemptions. This project as proposed requires excessive grading, which is damaging to the existing plants, animals and natural watershed. Indeed, the draft report states that "the project proposes to raise certain areas proposed for development out of the floodplain." We believe the topography of the site is not suited to this type of development if grading on this scale is required to accommodate the construction. Often the filling in of floodplain property produces unexpected water flows that can lead to flooding of areas previously not subject to excessive runoff. We believe the floodplain analysis is incomplete in this respect.

I-1A

Further, the Draft EIR indicates that the existing land use for the property is low-medium density residential. Low-medium density residential development is characterized by relatively small development pads, which, as a result of their small size can generally follow the pattern of the vertical and horizontal terrain of the property. Further, the City has adopted a Hillside Ordinance (Chapter 21.95) which enforces regulations that control and minimize the alteration of terrain for proposed development consistent with the allowed land use. The proposed Dos Collinas project includes a number of very large buildings, on large, wide, flat development pads. Such large, flat pads cannot favorably compare to the minimal terrain modification that would result from a low-medium density project on the same property. While the Draft EIR does conduct an analysis of the Dos Collinas project's compliance with required Hillside Ordinance findings (p. 5.1-36), and it does address an Existing General Plan Alternative (p. 6-9) we disagree that the Existing General Plan Alternative would not reduce impacts regarding Land Use Consistency and Grading and Aesthetics. By definition, we believe that the Existing General Plan Alternative would reduce identified significant impacts regarding consistency with the Hillside Ordinance, and Grading and Aesthetic impacts. We conclude that the Final EIR should re-assess whether the proposed project compares environmentally favorably or unfavorably with a low-medium residential project regarding Carlsbad hillside protection policies.

I-1B

2. Proximity to Community Services. Over the last two decades, architects and city planners across the world have recognized that assisted living facilities -- along with other high-density communities including affordable housing developments -- do not succeed when they are isolated, i.e. not within walking distance of grocers, drug stores, banking, retail, dining and entertainment facilities and public transportation. Carlsbad's Zoning Ordinance reflects this understanding and articulates specific conditions that must be met for high-density projects in general, and

I-2

## RESPONSE TO COMMENT LETTER FROM FRIENDS OF AVIARA, SIGNED BY DE'ANN WEIMER, PRESIDENT, DATED NOVEMBER 5, 2010 (COMMENT LETTER I)

### Response to Comment I-1A:

The proposed project would not result in a net reduction in floodplain area nor would the project exacerbate flood conditions. In addition, due to the nature of the topography on-site, please note that similar grading in the floodplain would be required to develop the site with single-family homes (i.e. at existing RLM General Plan Land Use designation). Flooding, hydrology, and floodplain impacts are addressed in detail in EIR Section 5.12-Hydrology/Water Quality. EIR Figure 5.12-9 provides a summary of the proposed 100-year floodplain condition (after development of the project). While the area of Detention BJ is included in the quantification of floodplain area lost and gained, the project would allow for the development of the Basin "BJ" by relocating the existing Rancho Carlsbad RV/Garden site from Basin "BJ" to the proposed project site. Additionally, the proposed project includes four unlined ponding areas, located within three proposed detention basins to assist with flood control. With implementation of proposed drainage improvements, no significant impact to onsite or downstream properties is anticipated and no further analysis or mitigation is determined to be necessary.

As applicable to Comment I-1a, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4), which includes the omission of the affordable housing site on APN 209-060-68, as well as the additional omission of the Equestrian Parcel on APN 209-0560-71 from the project area. As a result, impacts associated with the grading and development of the proposed CCRC would be further reduced. Under this refined, environmentally-superior alternative, the development and grading that was to be located on these two parcels under the proposed project would be eliminated and the project would result in a decrease in floodplain fills along Agua Hedionda Creek. Similar to the proposed project, the Refined No Affordable Housing Site Alternative would still result in some floodplain fills (i.e. in association with the development of the CCRC site) which would be off-set through onsite and offsite creation, with a resulting no-net-loss of floodplain. Detailed analysis of the refined alternative floodplain effects and project improvements have been added to Section 6.4.1.6 of the Final EIR.

### Response to Comment I-1B:

The commenter states that they disagree with the analysis and conclusion for the Existing General Plan Alternative discussed in Chapter 6.3 of the Draft EIR. Specifically, the commenter disagrees with the conclusion "that the Existing General Plan Alternative would not reduce impacts regarding Land Use Consistency and Grading and Aesthetics."

**RESPONSE TO COMMENT LETTER FROM FRIENDS OF AVIARA, SIGNED BY DE'ANN WEIMER,  
PRESIDENT, DATED NOVEMBER 5, 2010 (COMMENT LETTER I) (continued)**

**Response to Comment I-1B: (cont'd.)**

As discussed in Response to Comment I-1a above, as well as Section 6.3.1 of the Draft EIR, because of the nature of the existing topography on-site, which includes two large hills which range in elevation from 60 to 144 feet, similar grading/terrain modifications would need to occur to develop the project with 145 single-family homes at the existing RLM General Plan Land Use designation. In addition, a building height of 35 feet (i.e. same height as the CCRC/Professional Care Facility) would also be permissible for single-family homes. Under the Existing General Plan Alternative it is likely that two-story single-family homes could be located at the front yard setback; whereas with the project the proposed independent living units and assisted living buildings are located 120 to over 200 feet from the College Boulevard frontage. Further, the detached cottages proposed for the Dos Colinas project and adjacent to the College Boulevard Reach "A" frontage are all single-story.

Because no significant Land Use or Grading/Aesthetic impacts have been identified associated with the proposed project, the Existing General Plan Alternative could not reduce or avoid any impacts, as defined under CEQA. The City's Hillside Development Regulations, Grading Ordinance, Scenic Corridor Guidelines, and General Plan, were all reviewed for the project's conformance with regulations and policies related to grading and aesthetics. The project was determined to be in conformance with these ordinances and policies as it would be consistent with the existing and proposed development in the area, set back from roadways and project property lines and, where resources were identified, open space designations and/or easements are proposed. No further analysis is determined to be necessary related to land use and grading/aesthetics.

**Response to Comment I-2:**

The proposed Professional Care Facility is listed as a conditional use under the proposed zone, Residential Density-Multiple (CMC Section 21.24) and a Conditional Use Permit is required. In addition, the units proposed at the CCRC qualify as commercial living units and are therefore, not subject to the provisions of CMC Section 21.84.

Notwithstanding the above, the proposed project is located in the vicinity of existing commercial, retail, professional, medical, and social community services. Specifically, medical services currently exist within 2 miles of the project off of Salk Avenue and commercial, retail, professional, and social services existing within approximately 3 miles of the site. In addition, the Professional Care Facility will provide a variety of professional care services to meet the daily needs of the residents on-site, including dietary and medical services.

**RESPONSE TO COMMENT LETTER FROM FRIENDS OF AVIARA, SIGNED BY DE'ANN WEIMER,  
PRESIDENT, DATED NOVEMBER 5, 2010 (COMMENT LETTER I) (continued)**

**Response to Comment I-2: (cont'd.)**

Support services such as meals, housekeeping, laundry, transportation, social/personal care services, and recreational services will also be provided on-site. The proposed grading and pad development would result in a level building site which would be conducive to a senior living facility and access, and would not be detrimental to public health, safety and general welfare of the residents and visitors. In addition, a private shuttle service will be provided for the residents of the community to provide daily access to services located outside the boundaries of the facility. Furthermore, the improvements plans for College Boulevard include a bus stop adjacent to the southerly project entrance; it is expected that this would be utilized for future service by NCTD. Therefore, a number of options will exist to facilitate convenient transit and meet the daily needs for the residents.

**Comment Letter I**  
(cont'd.)

senior-focused projects in particular. Lacking these attributes, a project cannot provide adequate housing and quality of life for active seniors. If it fails its residents in these ways, the project does not warrant the types of environmental tradeoffs proposed by this Draft EIR, i.e. there is no policy justification for the proposed mitigation articulated in the Draft EIR.

Specifically, the Draft EIR does not conduct an analysis of compliance with City Zoning policies pursuant to Section 21.84.050 of the Carlsbad Zoning Ordinance. This section requires that housing for senior citizens should be located in close proximity to a wide range of commercial retail, professional, social and community services patronized by senior citizens; or have its own private shuttle bus which will provide daily access to these services. This section of the Zoning Ordinance also indicates that the housing for senior citizens should be located within a reasonable walking distance of a bus or transit stop unless a common transportation service for residents is provided and maintained; it should be located in a topographically level area; and should not be located in an area where it could be detrimental to public health, safety and general welfare. Further, logic and good planning would dictate that senior housing would be most efficiently located in close proximity to medical facilities. The Draft EIR has not addressed compliance with these Zoning policies. We conclude that the Final EIR should include an analysis of whether the proposed Dos Colinas housing for senior citizens complies with the site locational policies referenced above.

3. Air quality. The proposed affordable housing site subjects its occupants to the pollution associated with heavy traffic. The location is not dissimilar to the types of locations Los Angeles relied on for the placement of its schools, i.e. adjacent to bridges, overpasses and highways. That practice was stopped when students and teachers went to court to seek restitution for illness and injuries caused by breathing pollutants from exhaust and road materials. This location as proposed is similarly potentially deleterious to the health of residents. The Draft EIR confines most of its air quality resources to emissions generated during construction. The Final EIR should address the proximity of the affordable housing to the traffic emissions.

4. Misallocating Economic Risk. The city is proposing breaking from city precedent and allowing the separation of the affordable housing component of the project from the main residential campus. As FOA has noted in comments regarding the recently withdrawn Pontebello/Bridges at Aviara project, this amounts to a transfer of wealth from neighboring homeowners (a Taking) for the economic benefit of a commercial enterprise. We understand that banks may not wish to lend money to a project that includes affordable housing on the main campus for fear that the arrangement increases the risk associated with the success of the venture. However, the city should not be willing to diminish the value of one neighbor's property to improve a corporate entity's financial standing with its lender. That risk is appropriately borne by the developer -- and should be reflected in the interest rate and other conditions set by the lender. This misallocation of risk should be addressed as part of the economic impact of this project, and assumed by the developer.

Historically from Harbor Pointe to Bressi Ranch, the City has demonstrated that a single development can successfully incorporate housing for all. As proposed, the affordable housing component is a serious break with City precedent and should not be acted upon until the Envision Carlsbad process has addressed the policy issue.

5. Restoration. Finally, there are better uses for this property, including utilizing the floodplain areas by rehabilitating the parcels into a pristine wetland habitat that supports the endangered birds and other wildlife in the area. Expansion of locations suitable for supporting the migratory flight patterns of a variety of bird species would fall within the existing land use and zoning objectives. Wetland environments are dwindling and difficult to reverse engineer, making preservation and restoration essential. In addition, once a creek has been degraded by channeling it through a culvert or other storm water runoff system, it ceases to be regarded by this Planning Department as a viable body of water of import to the watershed. This is according to statements by City Staff made during the approval of the Palomar Commons site for a Lowe's earlier this year. The protection of these natural waterflows and wetlands should be addressed in the Final EIR.

I-2  
(cont'd.)

I-3

I-4

I-5

**RESPONSE TO COMMENT LETTER FROM FRIENDS OF AVIARA, SIGNED BY DE'ANN WEIMER,  
PRESIDENT, DATED NOVEMBER 5, 2010 (COMMENT LETTER I) (continued)**

**Response to Comment I-3:**

Section 5.3 of the Draft EIR addresses the potential health effects associated with the potential exposure of sensitive receptors, such as elderly, infirm, or young children, to increased air pollution as a result of the proposed project. As it relates to localized pollutants and proximity to roadways, the primary pollutant of concern is carbon monoxide (CO) levels or concentrations produced by vehicles on roadways.

As provided on page 5.3-15 of the Draft EIR, a CO "hotspot" analysis was prepared for the proposed project utilizing the South Coast Air Quality Management District's California LINE Source Dispersion Model, version 4 (Caline 4) to predict CO emissions at 100 feet from the road centerline or roadways, during the predicted peak hour traffic volume for the cumulative build-out plus project scenario. The results of the analysis indicate that no localized criteria pollutant impacts would create a CO "hotspot." The roadway segments examined (which includes the portion of College Boulevard adjacent to the affordable housing site), were found to comply with the CAAQS and NAAQS standards. As shown, CO levels for College Boulevard are 1.1 and 1.2 parts per million, which are well below the NAAQS and CAAQS thresholds of 9.0 parts per million.

As applicable to Comment I-3, it should be noted that the project applicant has proposed a Refined No Affordable Housing Site Alternative (Section 6.4) that would omit the affordable housing site on APN 209-060-68 and further reduce grading and development associated with the development of the proposed CCRC by eliminating the Equestrian Parcel (APN 209-060-71) for the refined alternative project area. Under the refined alternative, the Affordable Housing Site at APN 209-060-68 would no longer be developed. However, the applicant will still be required to provide affordable housing units either on the CCRC site or offsite at a location to be determined. If under this alternative the applicant choose to provide the affordable units on the CCRC site, similar to the proposed project, no impact to the residents of the affordable component would occur.

**Response to Comment I-4:**

Comment noted. Generally, as this comment does not specifically address the content or adequacy of the Draft EIR, no further response is necessary. However, for reference, while the location of the inclusionary housing is limited to sites within the same quadrant and the preference is to locate the inclusionary housing on-site, pursuant to CMC Section 21.85, an inclusionary housing requirement can also be satisfied offsite (i.e. on separate parcel in vicinity of project site).

**RESPONSE TO COMMENT LETTER FROM FRIENDS OF AVIARA, SIGNED BY DE'ANN WEIMER,  
PRESIDENT, DATED NOVEMBER 5, 2010 (COMMENT LETTER I) (continued)**

**Response to Comment I-4: (cont'd.)**

Please note that similar to the proposed project, there are a number of projects within the city that have satisfied the inclusionary housing requirements offsite by developing separate multi-family, mixed rate, projects such as Villa Loma, Manzanita, Hunter's Point and the Glenridge apartments.

However, notwithstanding the above discussion, and as discussed under Comment I-3 above, it should be noted that the Refined No Affordable Housing Site Alternative would omit the affordable housing site on APN 209-060-68 within the CCRC. In lieu of developing APN 209-060-68 with affordable housing units, the City's Housing Policy Team determined that either 20 of the independent living units on site could be restricted to lower-income households; or 24 units could be provided offsite by participating in a combined inclusionary housing project in the northeast quadrant. Implementation of either options will require proof in the form of an affordable housing agreement, which is required to be finalized prior to recordation of the Final Map for Phase II (Professional Care Facility).

**Response to Comment I-5:**

Section 5.6 of the Draft EIR addresses the project impacts to wetlands, while Section 5.12 addresses existing and proposed hydrology on and offsite as a result of the proposed project. No permanent impact to wetlands as a result of implementation of the proposed project has been identified. The construction of the off-site storm drain will result in an impact to 0.01 acre of non-vegetated earthen stream bank (subject to regulation by the California Department of Fish and Game).

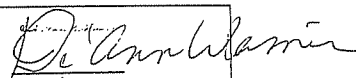
As applicable to Comment I-5, the Refined No Affordable Housing Site Alternative (Section 6.4) would omit the affordable housing site on APN 209-060-68 and further reduce grading and development associated with the development of the proposed CCRC by eliminating the Equestrian Parcel (APN 209-060-71) for the refined alternative project area. Furthermore, a second storm drain alternative (Storm Drain Alternative 2) has been identified. Under this alternative, the storm drain alignment would be placed within the existing paved road in the Rancho Carlsbad community and connect to Agua Hedionda Creek via an existing box culvert in Rancho Carlsbad Drive. This alternative would eliminate impacts to CDFG regulated streambank, eliminating all regulated watercourse impacts from the project. The analysis for the Refined No Affordable Housing Site Alternative, which is the recommended project design supported by both City staff and applicant for consideration by the City Council for adoption and implementation, has been expanded in the Final EIR in Section 6.4 to provide further comparative analysis with the proposed project.

Comment Letter I  
(cont'd.)

In conclusion, the proposed land use and zone changes are not in keeping with the intent of the General Plan. A major objective of the General Plan is to preserve open space and to encourage adjacent land uses that are compatible with one another. The Draft EIR allows the change from low-medium-density residential and open space to high density. It does not establish that this proposed land use for seniors is superior to the existing expectation for the parcels, falling an essential hurdle of the General Plan. If there is a shortage of high-density locations in the city that shortfall should be addressed by Envision Carlsbad as a matter of policy, and not in a piecemeal fashion, project by project.

Thank you for the opportunity to comment on the Dos Colinas Draft EIR. We look forward to your response to our concerns.

Regards,



De'Ann Welmer  
President, Friends of Aviara  
PO Box 131773  
Carlsbad, CA 92013

I-6

RESPONSE TO COMMENT LETTER FROM FRIENDS OF AVIARA, SIGNED BY DE'ANN WEIMER,  
PRESIDENT, DATED NOVEMBER 5, 2010 (COMMENT LETTER I) (continued)

Response to Comment I-6:

The proposed project is considered to be consistent with the applicable goals and policies of the General Plan and would further the achievement of certain goals and policies as detailed in Section 5.1 of the Draft EIR. The project would not obstruct implementation of any General Plan goal or policy. "An action, program, or project is consistent with the general plan if, considering all its aspects it will further the objectives and policies of the general plan and not obstruct their attainment." *Corona-Norco Unified School Dist. v. City of Corona* (1993) 17 Cal. App. 4th 985,944. No land use compatibility impact has been identified for the proposed project. It should be noted that while the Draft EIR analyzes the project's consistency with the General Plan pursuant to CEQA Guidelines Section 15125(d), the City of Carlsbad Planning Commission and City Council ultimately determines consistency with the General Plan.

The commenter incorrectly notes that the "Draft EIR allows the change from low-medium density residential and open space to high density." As demonstrated in Table 3-4 of the Draft EIR, with exception to the areas immediately adjacent to Agua Hedionda Creek, which have a General Plan Land Use designation of Open Space (OS), a large majority of the project site is currently designated as Residential, Low-Medium Density (RLM). The entire project area is currently zoned Limited Control (L-C).

As discussed in Section 3.0 of the Draft EIR, the only area proposed to be re-zoned to a high-density use with a RH General Plan Land Use designation is the affordable housing site at APN 209-060-68. The senior site is proposed to have a Residential-Medium Density (RM) General Plan Land Use designation. In addition, as discussed in the Draft EIR, it is anticipated that the development of the CCRC site with up to 145 single-family homes at the existing General Plan Land Use designation would result in similar environmental impacts.

As applicable to Comment I-6, the Refined No Affordable Housing Site Alternative (Section 6.4), includes the omission of the affordable housing site on APN 209-060-68, as well as the additional omission of the Equestrian Parcel on APN 209-060-71 from the project area. As a result, impacts associated with the grading and development of the proposed CCRC would be further reduced. Therefore, under the refined alternative (which is the city-recommended alternative), the request to change the General Plan Land Use and zoning designations at the affordable housing site to allow a high-density use would be eliminated from the project. As discussed in Section 5.1 of the Draft EIR, the proposed CCRC/professional care use was determined to be compatible with the adjacent land uses. Further, upland habitat along the perimeter of the property is proposed to be preserved at a ratio beyond the minimum preservation requirements outlined in the Habitat Management Plan. Therefore, the proposed project was found to be consistent with the General Plan. In addition, two large detention basins are proposed which provide a significant land use buffer between the independent living units and the creek.

PO Box 131773 Carlsbad, CA 92013 — boardmembers@friendsofaviara.org — www.friendsofaviara.org



**Comment Letter J**



**RECEIVED**  
NOV 08 2010  
CITY OF CARLSBAD  
PLANNING DEPT

November 5, 2010

Ms. Shannon Werneke  
Carlsbad Planning Department  
1635 Faraday Avenue  
Carlsbad, CA 92008

RE: Comments on DRAFT EIR – DOS COLINAS

Dear Ms. Werneke:

This is in response to your Draft EIR for the Dos Colinas project.

Your description of the project is a Continuing Care Retirement Community ("CCRC"). La Costa Glen Carlsbad and Carlsbad by the Sea are the two existing CCRC's in Carlsbad.

Although on Page 2-4 the DEIR identifies the economic viability of the Dos Colinas project as an area of controversy, the DEIR does not follow-up with addressing economic viability or the economic impacts of the project on similar existing projects in the area and on their residents. CEQA requires that projects that could result in social or economic impacts should have those impacts discussed if they have the potential to cause any physical damage, or if a resulting economic impact could result in indirect environmental impact. We believe that there is such potential, which could have direct impact on the existing senior citizens at Carlsbad's two premier CCRC's.

CCRC is a legally defined term in the California Health and Safety Code, Chapter 10 of Division 2, Sections 1770 through 1793.62. Dos Colinas cannot be or become a CCRC until it meets the conditions of the statute and receives approval from State authorities. The State requires market and financial feasibility analyses as part of an application prior to granting permission for a CCRC to operate or even to begin marketing to the public. These studies have the effect of gauging potential impact on residents of existing CCRC's, the protection of which is a primary goal of State regulation. La Costa Glen Carlsbad satisfied all of these requirements prior to application for approvals from the City of Carlsbad.

Our checking with regulators in Sacramento reveals that they do not know about a proposed Dos Colinas CCRC and have not received the requisite application and market and financial studies.

J-1

J-2

**RESPONSE TO COMMENT LETTER FROM LA COSTA GLEN, SIGNED BY RICHARD D. ASCHENBRENNER, CHIEF EXECUTIVE OFFICER, DATED NOVEMBER 5, 2010 (COMMENT LETTER J)**

**Response to Comment J-1:**

This comment notes that among the Areas of Controversy (Section 2.4) is the "Economic viability of the Continuing Care Retirement Community". The commenter goes on to note that the Draft EIR does not further address this issue within the analysis contained within the EIR. Pursuant to Section 15131 of the California Environmental Quality Act (CEQA), economic effects shall not be treated as significant effects on the environment and only must be addressed in an EIR when such economic effects result in a physical change. This comment does not present any evidence that the development and operation of the proposed facility would result in a detrimental economic impact to the community which could, in turn, result in a physical change to the environment.

**Response to Comment J-2:**

The project applicant, West Living, LLC has submitted an application for the proposed continuing care retirement community (CCRC) for discretionary and legislative land use entitlements. Please note that while the applicant has indicated that the facility is intended to be licensed as a Continuing Care Retirement Community and the Draft (and Final) EIR utilizes this characterization or general descriptor throughout the document, the use is more specifically defined as a Professional Care Facility pursuant to the Carlsbad Municipal Code. While not required to be licensed as a CCRC pursuant to city codes or regulations, the applicant has indicated that if the project is approved, West Living, LLC would apply for a CCRC license at the appropriate time (including supplying the requisite market studies). As shown in Health and Safety Code Section 1779, the project applicant has not reached a point in engaging in any of the activities that give rise to needing or applying for a CCRC license. Therefore, the commenter's inquiry to the state is accurate and no CCRC license has been applied for at this time.

1940 Levanto Street Carlsbad, CA 92009 Phone 760-704-6000 Fax 760-944-3003 www.LaCostaGlen.com

**Comment Letter J**  
(cont'd.)

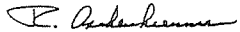
Page 2

This means that overall the DEIR is incomplete, lacking in study of environmental consequences from financial and market impacts; in error in referring to the project as a CCRC; and potentially misleading. Surely, the Carlsbad community deserves to know the potential environmental and other impacts to its senior citizens, along with the requirements the applicant must meet in order to become the CCRC this DEIR prepares the community to consider. Perhaps there is an error in calling this project a CCRC if it does not truly intend to become one as defined under California law, or there has been a procedural error in not doing the studies, including environmental, and marketing and financial required by the State.

J-3

Thank you for the opportunity to comment on the Draft EIR. We look forward to your response.

Sincerely,



Richard D. Aschenbrenner  
Chief Executive Officer  
Continuing Life Communities LLC,  
dba, La Costa Glen Carlsbad

RESPONSE TO COMMENT LETTER FROM LA COSTA GLEN, SIGNED BY RICHARD D. ASCHENBRENNER, CHIEF EXECUTIVE OFFICER, DATED NOVEMBER 5, 2010 (COMMENT LETTER J) (continued)

**Response to Comment J-3:**

The project as defined in EIR Chapter 3.0-Project Description, serves as the basis of analysis for the evaluation of the potential environmental impacts associated with the proposed project, irrespective of whether or not the project applicant has submitted an application for a CCRC license. However, clarifications have been added throughout the Final EIR to clarify that due to the nature of the services being provided onsite, the CCRC is more specifically defined as a "Professional Care Facility" pursuant to definition provided in the City of Carlsbad Municipal Code. Additionally, please refer to Response to Comment J-2, above. Furthermore, no substantial evidence was submitted to support any of the statements contained within this comment. The comments have been noted and no further response is necessary.

## Comment Letter K

Monday, December 20, 2010 3:27 PM

Subject: FW: Dos Colinas DEIR  
Date: Thursday, November 11, 2010 11:13 PM  
From: Shannon Werneke <Shannon.Werneke@carlsbadca.gov>  
To: Tim Gnibus <tim@brginc.net>

**From:** David Bentley [mailto:benteq@roadrunner.com]  
**Sent:** Wednesday, November 10, 2010 3:34 PM  
**To:** Shannon Werneke  
**Cc:** Don Neu  
**Subject:** Dos Colinas DEIR

### RESPONSE TO COMMENT LETTER FROM BENTLEY EQUITY, INC., SIGNED BY DAVID BENTLEY, DATED NOVEMBER 10, 2010 (COMMENT LETTER K)

#### Response to Comment K-1:

This comment provides introductory remarks and notes the commenter's support of the Dos Colinas project. Comment noted and no further response is necessary.

#### Response to Comment K-2:

The commenter correctly notes that the Dos Colinas project will be accordingly-conditioned, similar to the Cantarini Ranch/Holly Springs projects, to ensure a fair allocation of costs for the construction of Zone 15 infrastructure improvements.

Ms. Werneke:

Thank you for the opportunity to offer comments on the Dos Colinas Draft EIR and thank you for all your work on this project.

K-1

As a Carlsbad resident and a long-term property owner and developer in Zone 15 (Cantarini Ranch, MDR, Bepton-Dartford Lubliner, RCOA Parcel 4), I am very glad to see the Dos Colinas project moving forward.

K-2

Direct and fair-share participation by West Living/Dos Colinas in the Zone 15 finance plan, and particularly the financing and construction of the off-sites (College Blvd, bridge, Basin BJ, RCOA relocation site, etc.), is critical to the feasibility of development in the area. To that end, we assume the Dos Colinas project approvals will include conditions of approval similar to the Cantarini-Holly Springs projects to ensure a fair allocation of costs and support the timely completion of all the Zone 15 infrastructure.

Following are a few additional DEIR comments for your consideration:

## Comment Letter K

(cont'd.)

1. The discussion and analyses regarding the "Modified Wetland Buffer" for the proposed Dos Colinas affordable housing site is unclear. In particular, are the 60' fuel modification zone and the water quality basin located within the "97'" (average) modified buffer? If so, it would help to have an explanation of how that can be found to be consistent with the HMP and wildlife agency standards. It has been our experience that the resource agencies require the 100' wetland buffer to be net of (in addition to) the 60' fuel modification buffer and/or any other maintained facilities (i.e. de-silt or bioswale/stormwater quality basin).

K-3

2. (Ref Sec 5.6) The DEIR provides a good analysis of the relationship between the proposed "Phase I" RV/Gardens Relocation site and the Basin BJ project, including the critical infrastructure issue and the mitigating effect Basin BJ will have for the Dos Colinas flood plain impacts. What is not clear is whether the Basin BJ construction is a direct mitigation requirement of the Dos Colinas project since Basin BJ is off-setting over 4 acres of flood plain filling in Dos Colinas Phase I and about an acre of flood plain filling on Phase II. eg. Sec 5.6-47 "*Overall, the Dos Colinas Project site floodplain impacts are very nearly balanced by the gains of floodplain within Basin BJ.*" & Table 5.12-5 "*Notes: 'The net loss in floodplain area during Phase I will be compensated for with the construction of detention Basin BJ after the relocation of the existing RV storage/revegetation area is complete'.*"

K-4

3. (Ref Sec 5.6) The DEIR notes the original wetland mitigation associated with College Blvd. was planned to be provided within Basin BJ, then states, "*However, a more desirable mitigation site along Agua Hedionda Creek within the Lubliner Parcel will be utilized.*" This might be construed as "speculative mitigation" because the Lubliner Parcel wetland mitigation site is only a proposal that the Lubliner Parcel land owner, Bepton & Dartford, has not committed to (I am the managing partner of the Bepton & Dartford Lubliner Parcel); in fact, it might not be feasible at all.

K-5

### RESPONSE TO COMMENT LETTER FROM BENTLEY EQUITY, INC., SIGNED BY DAVID BENTLEY, DATED NOVEMBER 10, 2010 (COMMENT LETTER K) (continued)

#### Response to Comment K-3:

All 60-foot fuel modification zones for the Dos Colinas project are located outside of any required buffers wetland/riparian buffers and open space/biological conservation easements. Notwithstanding the above, please note that the city staff is recommending the implementation of the Refined No Affordable Housing Site Alternative, which eliminates the affordable housing at the Sunny Creek parcel (APN 209-060-68). The applicant has agreed to the implementation of this refined alternative and plans have been submitted which reflect this change. Therefore, the comment with respect to the fuel modification zone and the water quality basin being located within a required buffer on the affordable housing site is no longer applicable.

#### Response to Comment K-4:

As discussed in Comment K-3 above, the city staff recommends the implementation of the Refined No Affordable Housing Site Alternative, which eliminates the affordable housing at the Sunny Creek parcel (APN 209-060-68). The applicant has agreed to the implementation of this Alternative and plans have been submitted which reflect this change. The Refined No Affordable Housing Site Alternative and the Addendum to the Biological Resources Report clarifies that the Dos Colinas project requires a total of 3.94 acres of fill in the flood plain for "essential and non-essential infrastructure". A total of 2.34 acres has been determined to be associated with "essential infrastructure". The remaining 1.05 acres, is not considered to be associated with "essential infrastructure"; therefore offsets are required.

Although not required as direct mitigation for the Dos Colinas project, the Habitat Management Plan (HMP) Permit for Dos Colinas will be conditioned to offset impacts associated with filling in the floodplain for non-infrastructure improvements (1.05 acres) by creating an equivalent area which expands the floodplain in the vicinity of the Dos Colinas development. As further discussed in Chapter 6.4.1.6 of the Final EIR for the refined alternative, as well as the Addendum to the Biological Resource Report prepared by Merkel & Associates (Appendix K2A of the Final EIR), the applicant has identified either Detention Basin "BJ" or the Equestrian Parcel (APN 209-060-71) as potential locations to offset this impact.

It should be noted that the condition to offset the HMP floodplain-related impacts associated with the Dos Colinas project does not require the construction of Basin "BJ", but rather Basin "BJ" is a required infrastructure improvement as detailed in Local Facilities Management Plan 15, the Drainage Master Plan, and the Calavera Hills Master Plan Phase II, Bridge and Thoroughfare District No. 4, & Detention Basins Environmental Impact Report (EIR 98-02).

## Comment Letter F

(cont'd.)

4. (Ref Sec 5.6, +) The DEIR makes several references to the "Applicant" for both College Blvd. and for Basin BJ. That Applicant (Cantarini Ranch) is stalled because of the market and Dos Colinas may be the constructing party.

K-5

(cont'd.)

I trust the foregoing is helpful toward completing a "high-confidence" EIR and Dos Colinas project that the public will support in a timely way.

Good luck,

**BENTEQ**

BENTLEY EQUITY, INC. &

BENTLEY-WING PROPERTIES, INC.

DAVID M. BENTLEY, PRESIDENT

760-476-9572 \* 760-809-5216

WEB SITE: [WWW.DMBENTLEY.COM](http://WWW.DMBENTLEY.COM) <[HTTP://WWW.DMBENTLEY.COM](http://WWW.DMBENTLEY.COM)>

EMAIL: [BENTEQ@ROADRUNNER.COM](mailto:BENTEQ@ROADRUNNER.COM)

RESPONSE TO COMMENT LETTER FROM BENTLEY EQUITY, INC., SIGNED BY DAVID BENTLEY,  
DATED NOVEMBER 10, 2010 (COMMENT LETTER K) (continued)

### Response to Comment K-4: (cont'd.)

Because Basin "BJ" is assumed to be constructed, the Dos Colinas project proposed that a portion of the basin be designated as one of the potential locations to offset the HMP related floodplain impacts. These impacts are independent to any Zone 15 hydrologic requirement identified for detention Basin "BJ" to be constructed.

### Response to Comment K-5:

The commenter correctly notes that any wetland mitigation proposed in association with the development of College Boulevard within the Lubliner parcel is speculation. Further, although not required to be addressed as part of the Dos Colinas project (i.e. mitigation for College Boulevard is required pursuant to EIR 98-02), the applicant is currently exploring alternate locations for the wetland mitigation associated with the construction of College Boulevard Reach "A". No further response to this comment is determined to be necessary.

## Comment Letter L

Email:fr.Preserve Calavera.12-20-10.Equestrian uses.htm

8/17/11 9:04 AM

----- Original Message -----  
From: Diane Nygaard  
To: swernecke@carlsbadca.gov  
Cc: Karen Merrill ; David Lawhead ; Janet Stuckrath ; John Rimbach  
Sent: Monday, December 20, 2010 1:48 PM  
Subject: Equestrian Conditions for Dos Colinas project

Ms Wernecke

We recently were informed that equestrian use is being considered on the open space trails associated with the Dos Colinas project. Since this was not noted in the DEIR for this project we did not specifically comment on potential direct and indirect impacts associated with horses in natural open space areas. We did however request further definition of where trails are proposed so that potential impacts can be assessed. Pleased add these comments to our previously submitted comments on the DEIR.

Please note that we do not object to equestrian use of our natural lands. Our concern is that if this use is allowed that appropriate conditions are included to assure that the impacts associated with this use have been adequately evaluated and mitigated. Equestrian use can have significant adverse impacts on native habitat and species. Please note that specific conditions related to equestrian trails were included with the FEIR for the adjacent Cantarini-Holly Springs project. None of these impacts for the Dos Colinas project were identified in the biological report nor was this even acknowledged as a potential use in the DEIR. It is assumed that the proposed land use would not allow horse boarding, and there will be no staging areas provided for horses to be trailered to the project site. However there remain two horse boarding areas nearby and the Sunny Creek area is one of a very limited number of places where equestrian use is specifically allowed both in the city's General Plan and in the specific plan for this area.

The DEIR included no assessment of horse boarding, trailering into the area, or volume of use- all of which are important to assess the impacts of horse use on both the biological resources and water quality.

Adverse impacts from horse use has been well documented- and is the reason that horses are prohibited on the nearby hardline preserve land managed by the CA Department of Fish and Game. In their comment letter on the Cantarini-Holly Springs project scope dated November 15, 2002 they specifically stated that the development should be consistent with the adjacency standards in the city of Carlsbad's Habitat Management Plan and that no trails or roads should be created in the open space or lead to the Department owned Carlsbad Highlands. The DEIR failed to discuss these adjacency issues, direct or indirect adverse impacts from horses.

The adverse impacts from horse use have been documented in numerous studies. The following highlights a few of these:

- significant erosion to trails, especially when traveling uphill or on a wet trail ( Weir 2000)
- excreta causes a reduction in dissolved oxygen and elevated nitrates and phosphates concentrations in the aquatic environment causing ecosystem imbalance and possible algal blooms ( Seney 2000)
- adverse effects on exotics including the following(USGS 2002)

L-1

## RESPONSE TO COMMENT LETTER FROM PRESERVE CALAVERA, SIGNED BY DIANE NYGAARD, DATED DECEMBER 10, 2010 (COMMENT LETTER L)

### Response to Comment L-1:

This comment letter was received after the end of the public review period for the Draft EIR. Although CEQA does not require Lead Agencies to respond to late comments, the following response was prepared to the address the commenter's concerns.

The comment received via email raises questions and concerns pertaining the continued use of APN 209-060-71 for equestrian uses under the proposed project and any proposal for the designation of trails within this parcel. The commenter's assertion is correct, and while the residential structure has been conditioned to be removed as part of the proposed project (See MM B-15 of the Final EIR), the existing equestrian uses and structures would be consistent with the proposed (OS) Open Space land use designation and zoning, and would be permitted to continue onsite. The proposed project does not include the provision of trails within the project, and therefore, no analysis or conditioning associated with such passive recreational use is required for the Dos Colinas Project.

However, please note that the applicant has proposed the Refined No Affordable Housing Site Alternative (Section 6.4) that, in addition to removing the affordable housing site (APN 209-060-69) from the scope of the project, would also eliminate the equestrian property (APN 209-06071) from the scope of the project (and the alternative presented within the Draft EIR). This omission of the equestrian parcel includes all grading and development of the property, as well as any requests to change the land use or zoning designations. The city staff is recommending implementation of this alternative and the applicant has submitted plans, which reflect the omission of the affordable housing site and equestrian parcel from the scope of the development associated with the Dos Colinas project. Under this refined alternative, and as stated above, no change in the land use designation or zoning is proposed on both the equestrian and affordable housing properties. Any future request to convert the parcel to a hardline HMP preserve area will be reviewed for compliance with CEQA and the City's HMP upon submittal of such request.

file:///Users/Mary/Desktop/970-Sects%20from%20Alyssa/Email:fr.Preserve%20Calavera.12-20-10.Equestrian%20uses.htm

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## Comment Letter L

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exotic frequency highest along horse trails

sites with horse trails supported high diversity of exotic species, and higher % cover of exotics

exotics were introduced directly through seeds in manure and indirectly because hooves disturb soils making it more susceptible to invasive plant growth

trail erosion and structural damage to vegetation (breaking of limbs and shrubs) to accommodate horse and rider

trails were wider

social conflicts pedestrians must watch for excrement on trail, must move aside for horses to pass-manure and urine odors detract from nature experience

- Impacts from soil compaction† (Denning 1997)

This includes vegetation trampling effects to trailside vegetation by changing soil conditions through compaction and surface disruption

soil 13-26% more compacted contributing to trail deterioration

vegetation height reduced 96%(compared to 85% from hikers)

soil loosening in surface layers very pronounced

requires different trail management than foot trails

trail width increases

- increased predation by cowbirds associated with horses†

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(cont'd.)

Neither the trail delineation, nor any mitigation specifically for horses is included in the DEIR although there are significant potential adverse impacts from this proposed use.

The proposed horse trail could provide linkage to other lands where horse use is specifically prohibited. There is also a concern about water quality impacts because of the Arizona crossing of the creek. In addition to the direct impacts on the project site, there are potential indirect impacts that were not identified or mitigated.

Specific mitigation for horse use on habitat/species needs to include the following:

**MM Horses will only be allowed on trails approved for horse use and meeting specific requirements for such trails which will be included as part of the EIR certification.**

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MM Monitoring will be initiated for cowbirds with trapping if they are found in the project area.

MM Horse use will be restricted during the rainy season.

MM -Management and Monitoring Plan for managing the open space to address issues of horse use including such items as limits on maximum number of horse trips per week, regular manure removal and trail maintenance,† enforcement of† no staging areas or trailering to site, trail surface materials to provide some filtering and reduce compaction.

Thank you for your consideration of these comments.

Diane Nygaard  
On Behalf of Preserve Calavera  
References

Denning, Faith J.and Mazzotti,Frank J., Impacts of Equestrian Trails on Natural Areas, University of Florida, June 1997.

Introduction of Equestrian Activities into Natural Areas, USGS, 2002. (Summary of findings from several other studies)

Weir, Donald V., Impacts of Non-Motorized Trail Use, 2000. From  
[www.mtnforum.org/resources/library/weird00a.htm](http://www.mtnforum.org/resources/library/weird00a.htm)

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